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THE

MASSACHUSETTS JUSTICE;

BEING A

COLLECTION OF THE LAWS

OF THE

Commonwealth of Massachusetts,

Relative to the Power and Duty of

JUSTICES OF THE PEACE.

ALPHABETICALLY ARRANGED.

TO WHICH ARE ADDED, UNDER THE PROPER HEADS,

A VARIETY OF FORMS,

GROUNDED ON SAID LAWS.

The whole intended for the Use of those who practise in the Office of a Justice, to assist them in the various Duties thereto belonging.

WITH AN APPENDIX,

CONTAINING EXTRACTS FROM SUNDRY LAWS OF THE UNITED STATES, AND OTHER USEFUL MATTER.

TO ALL WHICH IS ADDED AN INDEX.

By SAMUEL FREEMAN, Esq.
Compiler of the Town Officer, Probate Auxiliary, and American Clerk's Magazine.

THIRD EDITION, MUCH IMPROVED.

BOSTON:

PUBLISHED BY THOMAS & ANDREWS, PROPRIETORS;
No. 45, NEWBURY-STREET, OCT. 1810.

E. T. BUCKINGHAM, PRINTER.

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DISTRICT OF MASSACHUSETTS, *TO WIT:*

BE it remembered, that on the tenth day of October, in the thirty-fifth year of the Independence of the United States of America, THOMAS & ANDREWS of the said District have depoſited in this office the title of a book, the right whereof they claim as proprietors, in the words following, *to wit:* "The Maſſachuſetts Juſtice; being a Collection of the Laws of the Commonwealth of Maſſachuſetts, relative to the Power and Duty of Juſtices of the Peace. Alphabetically arranged. To which are added, under the proper Heads, a variety of Forms, grounded on ſaid Laws. The whole intended for the uſe of thoſe who practiſe in the Office of a Juſtice, to aſſiſt them in the various Duties thereto belonging. With an Appendix, containing Extracts from ſundry Laws of the United States, and other uſeful Matter. To all which is added an Index. By Samuel Freeman, Eſq. Compiler of the Town Officer, Probate Auxiliary, and American Clerk's Magazine. Third Edition, much improved.

In conformity to the act of the Congreſs of the United States, intitled, "An Act for the Encouragement of Learning, by ſecuring the Copies of Maps, Charts and Books to the Authors and Proprietors of ſuch Copies during the Times therein mentioned"; and alſo to an act intitled, "An Act ſupplementary to an Act, intitled, An Act for the Encouragement of Learning, by ſecuring the Copies of Maps, Charts and Books, to the Authors and Proprietors of ſuch Copies during the Times therein mentioned; and extending the Benefits thereof to the Arts of Deſigning, Engraving and Etching Hiſtorical and other Prints."

WILLIAM S. SHAW,
Clerk of the Diſtrict of Maſſachuſetts.

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PREFACE.

THE Office of a Justice of the Peace is important and respectable. Whoever sustains it should be able to discharge the duties of it with honour to himself, and with propriety as it respects those with whom he has to do. In order to this, it is necessary he should be acquainted with the Law, and with proper forms of proceeding thereon.

For the use of those who may consider themselves not sufficiently informed in this respect, I have presumed to compile what is presented to them in the following sheets. They contain all the Statutes of the Commonwealth which relate to the Duty of a Justice, together with such Forms as appeared to be necessary to assist him in his practice upon the same. The Book, however, is not designed as a substitute to any now existing. A knowledge of Law in general, and in particular of the Common Law established in this State, is necessary to every one who has a Commission to keep the Peace, and to perform the other Duties which are thereby incumbent on him. Much however (and I may say most) of the Duty of a Justice proceeds from the Statutes of the Legislature, upon which no collection of Forms has hitherto been published. This consideration has led me to prepare those that are contained in this Book, in which, that it might be the more useful, I have inserted the Laws at large. An Abridgment would not have answered so well the purposes for which it is designed. Some of the Forms have been in substance long used and approved; but the most of them being grounded upon Laws lately enacted, are entirely new. If these should be tried and found to be well drawn, I shall be happy in the reflection of having thereby afforded any assistance to my Brethren in Office. If they should prove otherwise, I flatter myself the attempt will be approved, however I may have failed in the prosecution of it. If any of the Forms should be found upon practice to be erroneous or defective, I should esteem it kind in any who should find them so, to point out to me their defects, in order that they may be corrected in some future Edition, should there be occasion at any time to print one.

I have said that this Work was compiled for the use of those who should consider themselves not sufficiently informed as to the knowledge of the Law, and of proper Forms of proceeding thereon; yet I think it will not be wholly useless to those who are fully acquainted therewith, and who are much better able than myself to execute a work of this kind. It is certainly convenient to have the Law before them, and Forms to practice on it, when occasion shall require; they save time and assist the judgment. I cannot presume, however, that this Book will be perfect in all respects; but if it should meet with general acceptance, I shall be happy in the reflection, and shall consider my labour as abundantly rewarded.

PORTLAND, *March*, 1795.

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Advertisement concerning the Second Edition.

THIS Edition embraces the Laws passed by the General Court from the month of *March*, 1795, to the present time. It contains a number of Forms grounded on those Laws, as well as others, which I judged proper to be added to those which are contained in the first edition. Some Laws, which were in force when that edition was printed, have been since repealed, and are left out in this. No defects in the Forms contained in the former edition have (agreeably to my request in the preface thereof) been pointed out to me; but I have amended some of them, and made such improvements in the work as in the course of six years have appeared necessary. Thinking it might increase the usefulness of the work, I have, in the Appendix, inserted Extracts from sundry Laws of the United States, which may require some duty to be performed by Justices of the Peace.

Jan. 1802.

Advertisement concerning this Third Edition.

THE first and second Editions of this Work were divided into two parts; the first related to the Power and Duty of Justices composing the Court of General Sessions of the Peace. This Court having been abolished, the Laws which were the subject of its jurisdiction, *exclusively*, are left out, and the rest, which were contained in the first part, and only referred to in the second, are, in this edition, incorporated with the latter, and formed into one alphabetical collection; to which have been added such laws, passed since 1802, as were applicable to the work.

October, 1810.

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THE

MASSACHUSETTS JUSTICE.

ACKNOWLEDGMENT OF DEEDS.

BY an Act directing the Mode of transferring Real Eſtates by Deed, paſſed *March* 10, 1784, it is enacted as follows, viz. That all deeds or other conveyances of any lands, tenements or hereditaments, lying within this Commonwealth, ſigned and ſealed by the party or parties granting the ſame, having good and lawful right or authority thereunto, and acknowledged by ſuch grantor or grantors, before a Juſtice of the Peace in this ſtate, or before a Juſtice of the Peace or magiſtrate in ſome other of the United States of America (or in any other ſtate or kingdom wherein the grantor or vendor may reside at the time of making and executing the deed) and recorded at length in the regiſtry of deeds in the county where ſuch lands, tenements or hereditaments do lie, ſhall be valid to paſs the ſame, without any other act or ceremony in the law whatſoever. And no bargain, ſale, mortgage or other conveyance in fee ſimple, fee tail, or for term of life, or any leaſe for more than ſeven years from the making thereof, of any lands, tenements or hereditaments within this Commonwealth, ſhall be good and effectual in law to hold ſuch lands, tenements or hereditaments, againſt any other perſon or perſons but the grantor or grantors, and their heirs only, unleſs the deed or deeds thereof be acknowledged and recorded in manner aforeſaid. *Provided nevertheleſs*, That when any grantor or leſſor as aforeſaid ſhall

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ſhall go beyond ſea, or be removed out of this government, or be dead, before the deed or conveyance by him executed ſhall be acknowledged as aforeſaid, in every ſuch caſe the proof of ſuch deed or conveyance, made by the oath of one or more of the witneſſes whoſe names may be thereunto ſubſcribed, before any court of record within this Commonwealth, ſhall be equivalent to the party's own acknowledgment thereof before a Juſtice of the Peace as aforeſaid.

And be it further enacted, That if any grantor or leſſor of any lands, tenements or hereditaments, ſhall refuſe to acknowledge any bargain, ſale, mortgage or other conveyance as aforeſaid, it ſhall be lawful for ſuch grantee or leſſee to leave a copy of ſuch deed or leaſe, compared with the original by the regiſter in the regiſter's office, and ſuch copy, ſo left, ſhall be deemed ſufficient caution to all perſons againſt purchaſing or extending execution thereon for the ſpace of forty days from the time of leaving ſuch copy. And any Juſtice of the Peace in the ſame county, after ſuch refuſal, at the requeſt of the grantee or leſſee, his heirs, executors, adminiſtrators or aſſigns, may iſſue a ſummons for ſuch grantor or leſſor to appear (if he ſees cauſe) at a certain time and place therein mentioned, to hear the teſtimony of the ſubſcribing witneſſes thereunto; which ſummons ſhall be ſerved by the proper officer ſeven days at the leaſt before the time therein aſſigned for proving the deed; and at ſuch time and place, whether the grantor or leſſor be preſent or not, it being made to appear by the oath of one or more of the witneſſes thereunto ſubſcribed, that they ſaw the ſaid grantor (or leſſor) voluntarily ſign and ſeal the deed, and that they ſubſcribed their names as witneſſes thereunto at the ſame time, ſuch proceedings, and a certificate thereof under the hand of the Juſtice, annexed to the deed (wherein the preſence or abſence of the adverſe party ſhall be noted) ſhall be equivalent to the acknowledgment of the grantor before a Juſtice of the Peace.

Provided, That nothing in this act ſhall be conſtrued, deemed or extended to bar any widow of any vender or mortgager of lands or tenements from her dower or right in or to ſuch lands or tenements, who did not join with her huſband in ſuch ſale or mortgage, or otherwiſe lawfully bar or exclude herſelf from ſuch dower or right.

And by an additional Act, paſſed *June* 28, 1787, it is further enacted,

That in all caſes which have or may hereafter happen, where the grantor or grantors of any deed ſhall be deceaſed before the deed or conveyance by him executed ſhall be acknowledged, and the witneſſes whoſe names may be ſubſcribed thereto are alſo deceaſed,

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ceafed, that the proof of the hand writing of the grantor or grantors, and of the fubfcribing witneffes thereto, made by the oath of two witneffes before any court of record within this Commonwealth, fhall be equivalent to the party's own acknowledgment thereof before a Juftice of the Peace, as is in and by the faid act mentioned.

Provided, That it fhall be made to appear to the fatisfaction of the Juftices of the court before whom fuch proof fhall be made, that the grantee or grantees, mentioned in fuch deed or conveyance, have, in the life time of the grantor or grantors, taken actual poffeffion of the real eftate conveyed by fuch deed; and that the faid grantee or grantees, or fome perfon or perfons claiming under him or them, have continued fuch actual poffeffion quietly, to the time when fuch application fhall be made to fuch court for the purpofes aforefaid.

FORMS.

I.

Acknowledgment of a Deed.

C——ff. Then the above (or within) named acknowledged the above (or within) written inftrument, by fubfcribed, to be act and deed.

Before me, S. T. Juftice of the Peace.

II.

Application to a Juftice of the Peace, when a Grantor or Leffor refufes to acknowledge a Deed or Leafe.

To S. T. Efq. one of the Juftices of the Peace within and for the county of C.

Complains A. B. of, &c. That C. D. of, &c. on the day of figned and fealed a deed conveying to him, in fee fimple, (fee tail, for term of life, or leafe for more than feven years, *as the cafe may be*) [*Here the premifes may be generally defcribed.*] which deed the faid C. D. hath refufed and ftill doth refufe to acknowledge before a Juftice of the Peace. He therefore requefts that you would iffue a fummons to the faid C. D. to appear before you, to hear the teftimony of the fubfcribing witneffes thereunto, and that fuch other proceedings may be had thereon as the law in fuch cafes directs.

Dated, &c. A. B.

Summons.

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III.

Summons thereon.

C———ſſ. To C. D. of, &c.

Whereas A. B. of, &c. hath complained to me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of C. That on the day of , you ſigned and ſealed a deed, conveying to him, in fee ſimple, (fee tail, for term of life, or leaſe for more than ſeven years, *as the caſe may be.*) [*Here mention the premiſes.*] Which deed, he ſays, you have refuſed and ſtill do refuſe to acknowledge before a Juſtice of the Peace and hath therefore requeſted that I would ſummon you to appear before me, to hear the teſtimony of the ſubſcribing witneſſes thereunto, and further to proceed thereon as the law in ſuch caſes directs.

I do therefore, in the name of the Commonwealth of Maſſachuſetts, hereby notify and ſummon you to appear before me (if you ſee cauſe) on the day of , at o'clock in the noon, at my dwelling-houſe in , in the ſaid county of C. then and there to hear the teſtimony of the ſaid ſubſcribing witneſſes, viz. E. F. and G. H. that ſuch proceedings may be had thereon as the law of the commonwealth in ſuch caſes directs.

Given under my hand and ſeal, this day of A. D. 18

S. T.

IV.

Certificate to be annexed.

C———ſſ.

I hereby certify, That on this day of , A. D. 18 E. F. and G. H. (or E. F. one of) the witneſſes whoſe names are ſubſcribed to the foregoing (or within) deed, appeared before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of C. and made oath, that they (*or* he, *as the caſe may be*) ſaw the above (or within) named C. D. ſign and ſeal the above (or within) deed, and that they ſubſcribed their names as witneſſes thereunto at the ſame time, the ſaid C. D. being preſent [*or* the ſaid C. D. although duly ſummoned according to law, was not preſent, *as the caſe may be*] when they (or he) took the ſaid oath.

S. T. Juſtice of the Peace.

ACTIONS—See CIVIL ACTIONS.

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AID.

The following Act paſſed the 26th of *February*, 1796.

An Act to enable Sheriffs, Deputy Sheriffs and Conſtables to require aid in the execution of their reſpective offices in criminal caſes.

SECT. 1. BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That any ſheriff, deputy ſheriff, or conſtable, being in the execution of his office for the preſervation of the peace, or for the apprehending or ſecuring any perſon or perſons for breach of the ſame, or for any other criminal cauſe, ſhall have lawful authority to require ſuitable aid and aſſiſtance therein. And if any perſon, being required by any ſheriff, deputy ſheriff, or conſtable, in the name of the Commonwealth of Maſſachuſetts, to aid and aſſiſt him in the execution of his office as aforeſaid, ſhall neglect or refuſe ſo to do, and be thereof convicted before any court proper to try the ſame, ſuch offender ſhall be fined to the uſe of the county where the offence ſhall be committed, not leſs than *three dollars*, nor more than *fifty dollars*, according to the circumſtances of the caſe; and if any ſuch offender ſhall be unable, or ſhall not forthwith pay the ſaid fine, ſuch court may puniſh him by impriſonment not exceeding thirty days.

SECT. 2. *Be it further enacted*, That if any perſon, not being really and *bona fide* a ſheriff, deputy ſheriff, or conſtable, ſhall pretend himſelf to be either of the ſaid officers and take upon himſelf to act as ſuch, or to require any perſon or perſons to aid or aſſiſt him in any matter appertaining to the duty of ſheriff, deputy ſheriff, or conſtable, he ſhall be fined not exceeding four hundred dollars, according to the circumſtances of his offence; one moiety thereof to the uſe of the Commonwealth, and the other moiety to him or them who ſhall proſecute therefor.

SECT. 3. *Be it further enacted*, That any Juſtice of the Peace, for the preſervation thereof, or upon view of the breach thereof, or upon view of any other tranſgreſſion of law proper to his cognizance, done or committed by any perſon or perſons whatever, ſhall have authority (in the abſence of the ſheriff, deputy ſheriff, or conſtable) to require any perſon or perſons to apprehend and bring before him ſuch offender or offenders: And every perſon ſo required who ſhall refuſe or neglect to obey the ſaid Juſtice, ſhall be puniſhed in the ſame manner as for refuſing or neglecting to aſſiſt any ſheriff, deputy ſheriff, or conſtable, in the execution of his office as aforeſaid. And no perſon who ſhall refuſe or neglect to obey ſuch Juſtice, to whom he ſhall be known, or declare himſelf to be a Juſtice of the Peace, ſhall be admitted to plead excuſe on any pretence of ignorance of his office.

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SECT. 4. Whereas doubts have arisen whether a constable, unless empowered by statute, can lawfully convey any person by him apprehended, or things taken by writ or warrant to him directed, any farther than through his town or district: *Be it further enacted*, That any constable of any town or district within this Commonwealth, shall have authority in the execution of the warrant or writ to him directed by lawful authority, to convey as well any prisoner or prisoners, as things that they may have taken into their custody, either to the Justice issuing such warrant or writ, or to the common gaol or house of correction of the county where such constable is an inhabitant, according as in the writ or warrant may be directed.

SECT. 5. *Be it further enacted*, That all laws enacted in this Commonwealth, before the first of *November*, Anno Domini seventeen hundred and eighty, the subject matter whereof is included in this act, be and the same are hereby repealed.

AGREEMENTS.—See REFFERENCES.

APPRAISERS.

A JUSTICE of the Peace may appoint Appraisers of the estate of any person dying intestate, that shall lay more than ten miles from the dwelling place of the Judge of Probate of the county in which such estate lies. And if any part of the estate of any person dying testate or intestate, shall lay without the limits of the county of the Judge of Probate to whom it appertains to act as such in the settlement of the same, a Justice may then appoint the appraisers of such part of such estate; and in both cases shall administer to them the necessary oaths, and shall certify the same, together with the appointment, which shall be considered as valid and effectual in law, as if such persons were appointed and sworn by the Judge of Probate. And in all cases where appraisers, commissioners or dividers, appointed by the Judge to perform any service respecting the estate of any person deceased, or persons to set off the widow's dower therein, and are by law directed to be under oath, or sworn by the Judge of Probate, they may be sworn before a Justice of the Peace; and in case there be no Justice of the Peace in the same town, they may be sworn before the town clerk; a certificate of such oath to be returned to the Probate office from whence the warrant or commission appointing them issued.

FORM

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FORM

Of a Warrant of Appointment, when the Eſtate lies more than ten miles from the Judge's dwelling houſe.

D——ſſ. To ———, Greeting.

Whereas A. B. late of ——— in ſaid county, deceaſed, hath lately died inteſtate, ſeized of an eſtate which lies within ſaid county more than ten miles from the dwelling houſe of the Hon. W. S. Eſq. Judge of Probate for ſaid county:

You are therefore hereby appointed and empowered to take an inventory of ſaid eſtate; and (according to your beſt ſkill and judgment) truly and juſtly to appraiſe the ſame in dollars and cents, according to the preſent value thereof; and then make return of this warrant, with your doings thereon, into the Probate office of ſaid county, as ſoon as may be.

Given under my hand, this —— day of ———, A. D. 18.

S. T. Juſtice of the Peace.

Of a Warrant of Appraiſement of the Eſtate of a perſon deceaſed, teſtate or inteſtate, lying without the county, &c.

S———ſſ. To ———, Greeting.

Whereas A. B. late of ——— in the county, of D. deceaſed, died ſeized of an eſtate lying in ——, in the ſaid county of S. and without the limits of the ſaid county of D:

You are hereby appointed and empowered to take an inventory of all the eſtate whereof the ſaid A. B. died ſeized of as aforeſaid, and (according to your beſt ſkill and judgment) truly and juſtly to appraiſe the ſame in dollars and cents, according to the preſent value thereof; and then make return of this warrant and your doings thereon, to the Hon. W. S. Eſq. Judge of Probate for the ſaid county of D. to whom it appertains to act as ſuch in the ſettlement of ſaid eſtate, without delay.

Given under my hand and ſeal, this —— day of ———, A. D. 18

S. T. Juſtice of the Peace.

Of the Certificate of their Oath.

D———ſſ.

The abovenamed —— —— perſonally appeared and made oath that they would faithfully and impartially perform the ſervices to which they are appointed by the above warrant.

Before me, S. T. Juſtice of the Peace.

APPRENTICES.

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APPRENTICES.

IF an apprentice or ſervant elope from his maſter, he may be apprehended by any Juſtice of the Peace of the county where he is bound, or where he may be found, upon complaint of the maſter or any other on his behalf, and returned to his maſter by any perſon to whom the warrant may be directed, or he may be firſt ſent to the houſe of correction, at the Juſtice's direction.

FORMS.

I.

Complaint of a Maſter whoſe Apprentice or Servant hath eloped.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath A. B. of, &c. That C. D. who hath been legally bound to him as an apprentice (*or* ſervant) hath eloped from him contrary to law, and againſt the peace of the Commonwealth. He therefore prays that a warrant may be iſſued for apprehending the ſaid C. D. and that he may be returned to your complainant, or firſt ſent to the houſe of correction, as by a law of the Commonwealth, you ſhall judge proper to direct.

Dated, &c. A. B.

II.

Warrant thereon.

D——ſſ. To the Sheriff of the ſaid county of D. or either of his Deputies, and to either of the Conſtables of the town of ——, in ſaid county. *Or*, To, &c.

(L. S.) Whereas A. B. of, &c. hath this day made complaint upon oath to me the ſubſcriber, one of the Juſtices of the Peace, within and for the ſaid county of D. That C. D. who hath been legally bound to him as an apprentice (*or* ſervant) hath eloped from him contrary to law and againſt the peace of the Commonwealth.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to apprehend the ſaid C. D. and bring him before me, that he may be examined, touching ſaid complaint, and dealt with as to law and juſtice ſhall appertain.

Given under my hand and ſeal this —— day of ——, A. D. 18

S. T.

Order

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III.

Order for his Return.

D——ff. To the Sheriff of the ſaid county of D. or either of his Deputies, and to either of the Conſtables of the town of ——, in ſaid county. *Or*, To, &c. Greeting.

(L.S.) Whereas it hath been made to appear to me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of D. after due examination upon the complaint of A. B. of, &c. That C. D. who has been legally bound as an apprentice (*or* ſervant) to him, hath eloped from his ſaid maſter.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to take the ſaid C. D. and return him to the ſaid A. B. his maſter, and make return of this order to me.

Given under my hand and ſeal this —— day of ———

IV.

Commitment to the Houſe of Correction.

To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town of ———, in ſaid county, *or* To &c. and to the keeper of the houſe of correction in ———, (*or* To the keeper of the gaol at ———) in ſaid county, Greeting.

(L.S.) Whereas it hath been made to appear, &c. [*as in the laſt.*]

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you to take the ſaid C. D. and him convey to the ſaid houſe of correction, (*or* to the ſaid gaol, the ſame being made uſe of as a houſe of correction, there being no ſuch houſe otherwiſe provided for that purpoſe) and deliver him to the keeper thereof, together with this warrant. And the ſaid keeper is hereby commanded to receive the ſaid C. D. into his cuſtody in ſaid houſe (*or* gaol) there to be kept, corrected and ſet to work, agreeably to the legal rules and orders of ſaid houſe; until he be diſcharged therefrom by due order of law.

Given under my hand and ſeal this —— day of ———

By an act of the General Court, paſſed the 28th of *February*, A. D. 1795, entitled "An Act to ſecure to maſters and miſtreſſes as well as to apprentices and minor ſervants, bound by deed, their mutual privileges," it is enacted.

SECT. 1. That minors under the age of fourteen years, may be bound by deed until that age, as ſervants or apprentices, by their father, and in caſe of his deceaſe, by their mother, or by their guardian legally appointed; or having no parent or guardian,

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ian, may bind themſelves, with the approbation of the ſelectmen or major part of them, of the town, where ſuch minors reſide. And all minors of the age of fourteen years or upwards may be bound by deed, as apprentices or ſervants; females to the age of eighteen years, or to the time of their marriage, within that age; and males to the age of twenty one years, by their father, and in caſe of his deceaſe, by their mother or guardian legally appointed, having the minor's conſent expreſſed in the deed: And any ſuch minors having no father, mother or guardian within the Commonwealth, may, by deed, bind themſelves, with the approbation of the ſelectmen, or the major part of them, of the town where they reſide; *Provided*, That in every caſe there ſhall be two deeds of the ſame form and tenor, executed by both parties; one to be kept by each; and where made by the approbation of the ſelectmen, they, after having examined the terms of the deeds, ſhall expreſs their approbation thereon, and ſign the ſame. *Provided alſo*, That all conſiderations which ſhall be allowed by the maſter or miſtreſs in any contract of ſervice or apprenticeſhip, ſhall be ſecured to the ſole uſe of the minor, thereby engaged. And all contracts, which ſhall be made by any parent or guardian, or by any minor, for him or herſelf, purſuant to this act, ſhall be good and effectual in law againſt all parties, and the minors thereby engaged according to the tenor thereof.

Sect. 3. That if any ſervant or apprentice bound as aforeſaid, ſhall depart from the ſervice of his or her maſter or miſtreſs, it ſhall be lawful for any Juſtice of the Peace of the county where ſuch ſervant or apprentice may be found, on complaint made to him by the maſter or miſtreſs, or by any one in his or her behalf, on oath, to iſſue his warrant to the Sheriff, his Deputy, or any Conſtable within the county, directing him to apprehend ſuch ſervant or apprentice, and to bring him or her before the ſaid Juſtice, who upon the hearing, ſhall order the ſaid ſervant or apprentice to be returned to the place of his or her duty; or to commit him or her to the common gaol of the county, there to remain for a term not exceeding twenty days; unleſs ſooner diſcharged by his or her maſter or miſtreſs: And the Juſtice's warrant, for returning ſuch ſervant or apprentice to the place of his or her duty, directed to any officer or other perſon, by name, ſhall authoriſe him to convey any ſuch ſervant or apprentice to ſuch place, notwithſtanding it may be in any other county in the Commonwealth; and the coſts of the proceſs and commitment by the ſaid Juſtice, ſhall be paid by the maſter or miſtreſs, to be recovered by him or her on the deed or covenant, and when recovered of the guardian, the ſame with all further coſts he may be held to pay, ſhall be a proper article of charge in his guardianſhip account.

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☞ The ſecond ſection of the abovementioned act, empowers the Courts of Common Pleas, on complaint of the parents, guardians or ſelectmen, who may have bound out any minors, againſt the maſters or miſtreſſes of ſuch minors for any perſonal cruelty, neglect or breach of covenant, to diſcharge them from their apprenticeſhip or ſervice.

The fourth ſection empowers the ſaid court, on complaint as aforeſaid, to diſcharge any maſter or miſtreſs from the contract of ſervice or apprenticeſhip of minors, bound as aforeſaid, who ſhall be found guilty of any groſs miſbehaviour, wilful neglect, or refuſal of their duty.

By the other ſection of ſaid act, it is enacted, that no covenant of apprenticeſhip entered into by any minor, his parent, or guardian, for the purpoſe of inſtructing ſuch minor, in any trade or myſtery, made to any maſter and his wife, or the executors, adminiſtrators or aſſigns of ſuch maſter, ſhall be binding on ſuch minor, parent or guardian, after the deceaſe of the maſter.

FORMS.

I.

Complaint of a Maſter or Miſtreſs (or others in his or her behalf) *whoſe Servant or Apprentice hath departed from his or her Service.*

To S. T. Eſq. one of the Juſtices of the Peace, within and for the county of D

Complains upon oath, E. B. of ———, (*or* E. F. in behalf of E. B.) That C D. who hath been, and now ſtands legally bound as a ſervant (*or* apprentice) to the ſaid E. B. hath departed from —— ſervice, at ———, contrary to law, and againſt the Peace of the Commonwealth, and is now, as your complainant believes, at ———.

Wherefore your complainant prays, that the ſaid C. D. may be apprehended and dealt with as the law in ſuch caſes directs.

Dated, &c.

D——ſſ. The abovenamed E. B. made oath to the truth of the foregoing complaint,

Before me, S. T. Juſtice of the Peace.

II.

Warrant thereon.

This may be as that in page 12, obſerving to inſert in the preamble the words of the complaint, as above.

Or, under the complaint as follows, viz.

D——ſſ. To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the conſtables of the town of —— in ſaid county, Greeting.

(L. S.) Whereas the foregoing complaint hath this day been made

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made upon oath to me the fubſcriber, one of the Juſtices of the Peace for the ſaid county of ——:

You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to apprehend C. D. therein, and bring him before me, that he may be held to anſwer to the ſame, and dealt with as the law in ſuch caſes directs.

Given under my hand and ſeal this —— day of ——, A. D. 18

S. T.

III.

Order of Return.

D—— ſſ. To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town of ——, in ſaid county, *Or*, To, &c. Greeting.

(L.S.) Whereas it hath been made to appear to me the ſubſcriber, one of the juſtices of the Peace for the ſaid county of D. upon the hearing the complaint of ——, That C. D. who hath been, and now ſtands legally bound as a ſervant (*or* apprentice) to the ſaid E. B. hath departed from —— ſervice at ——.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you forthwith to return the ſaid C. D. to —— the place of —— duty as aforeſaid, and make return of this order to me.

Given under my hand and ſeal this —— day of ——, A. D. 18

S. T.

VI.

Commitment.

D——ſſ. To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town ——, in ſaid county, Greeting.

(L.S.) Whereas it hath been made to appear, &c. [*as in the laſt Form.*]

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you to take the ſaid C. D. and him convey to the common gaol of the ſaid county at ——, and deliver him to the keeper thereof, together with this warrant. And the ſaid keeper is hereby commanded to receive the ſaid C. D. into his cuſtody, in ſaid gaol, and him there detain for the term of —— days, unleſs ſooner diſcharged by his ſaid maſter (*or* miſtreſs) or otherwiſe by due order of law.

Given under my hand and ſeal this —— day of ——, A. D. 18

S. T.

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AQUEDUCTS.

Part of an Act passed Feb. 21, 1799, entitled "An Act enabling Proprietors of Aqueducts to manage the same."

SECT. 1. BE *it enacted, &c.* That when any number of persons shall, by writing, associate and become proprietors of any Aqueduct, or of any funds raised for making and constructing the same, for the purpose of conveying fresh water by subterraneous or other pipes, into any town or place, within this Commonwealth, it shall be lawful for the proprietors of a major part of the shares, to apply, in writing, to some Justice of the Peace, for the County in which the said Aqueduct may be, or is proposed to be placed, stating, in such written application, the name and style of their association, the object of their proposed meeting, and requesting such Justice to issue his warrant to some one of the proprietors, so applying, directing him to call such meeting: And such Justice is hereby authorized to issue his warrant accordingly, therein stating the time, and place, and town, in which the said Aqueduct may be, or is proposed to be placed.

SECT. 10. *Be it further enacted*, That if any person shall maliciously or wantonly injure any such Aqueduct, he or she shall forfeit and pay a sum not exceeding twenty dollars, to be recovered by indictment, in the Supreme Judicial Court, or Court of General Sessions of the Peace, one moiety thereof to the prosecutor, and the other moiety thereof to the use of the town in which such offence shall have been committed; and shall also be liable to pay treble damages to the Corporation so injured, to be recovered by action in the case, with costs of suit.

SECT. 12. *Be it further enacted*, That when any such Aqueduct shall be, or proposed to be, placed so as to extend into several counties, application may be made to, and a warrant issued by a Justice of the Peace of either of such counties, in the manner, for the purpose, and with the effect provided and enacted in the first section of this act.

FORM

Of an Application to a Justice, for a Warrant to call a Meeting of the Proprietors of an Aqueduct.

To S. T. Esq. one of the Justices of the Peace within and for the County of C.

We the Subscribers, a major part of the Proprietors of the —— Aqueduct, hereby request that you would issue a warrant for calling a meeting of the said Proprietors, to be holden at —— on ——, for the following purposes, viz.

1. To ——
2. To ——, &c.

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Warrant.

C———ſſ. To A. B. one of the Subſcribers of the foregoing application.

You are hereby required, in the name of the Commonwealth of Maſſachuſetts, to notify and warn the Proprietors of the ——— Aqueduct, as the law directs, to meet at ——— on ———, for the purpoſes therein mentioned.

Given under my hand and ſeal, the —— day of —— A. D.

P——18 Purſuant to the above warrant to me directed, I do hereby notify and warn the Proprietors of the —— mentioned in the foregoing application, to meet at the time and place, and for the purpoſes therein expreſſed. A. B.

BAIL.

An Act in addition to an Act, entitled, "An Act regulating Bail in Civil Actions."

WHEREAS doubts have ariſen touching the remedy where bail has been taken in civil actions before Juſtices of the Peace:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That whenever bail ſhall hereafter be taken on meſne proceſs, in any civil action, triable before any Juſtice of the Peace, and there ſhall have been a return of *non eſt inventus* upon the execution which iſſued on a judgment rendered on ſuch proceſs, the ſaid Juſtice may proceed, within one year from the rendition of ſuch judgment, to iſſue a *ſcire facias* upon the ſame judgment, againſt ſuch bail, which writ being duly ſerved ſeven days at leaſt before the time therein ſet for trial, and returned, the ſaid Juſtice may proceed to take cognizance thereof; and if no juſt cauſe is ſhewn to the contrary, to render judgment againſt ſuch bail for the debt or damage and coſts recovered againſt the principal, with additional damages and coſts, and to iſſue execution accordingly. And it ſhall be no bar to ſuch *ſcire facias*, that the debt and coſts on the original judgment, when added together, exceed the ſum of *thirteen dollars and thirty-three cents*; but the plaintiff ſhall be entitled to receive his coſts of ſuit as in other caſes on ſuch *ſcire facias*.

SECT. 2. *And be it further enacted*, That if the bail ſhall, at any time before final judgment upon the original ſuit is rendered againſt him, or upon the return of ſuch *ſcire facias*, and before judgment thereon ſhall be rendered againſt him, bring his principal before ſuch Juſtice, and ſhall procure the Sheriff of the county, or his Deputy, or any Conſtable of the town wherein ſuch Juſtice may reſide, to attend and receive him, ſaid Juſtice ſhall thereupon

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thereupon order him into the cuſtody of ſuch officer; and the principal ſhall be committed to gaol, and there remain, and be proceeded with as is provided in the Act to which this is in addition; and upon the payment of the coſts which may have ariſen on ſuch *ſcire facias*, the bail ſhall be diſcharged from their ſurety-ſhip, as in other caſes.

SECT. 3. *And be it further enacted*, That when any principal, ſurrendered as aforeſaid, ſhall be ordered into cuſtody, the ſaid Juſtice ſhall make out, and deliver to the officer receiving him, a warrant or mittimus, of the tenor following, to wit:

COMMONWEALTH OF MASSACHUSETTS.

ſſ. *To the Sheriff of the County of or his Deputy, or to any Conſtable of the Town of and to the Keeper of the Gaol in ſaid County, Greeting.*

(Seal.) Whereas A. B. of C. in ſaid county, (addition) at a Court this day holden before me, has been ſurrendered by D. E. of F. in ſaid county who was bail for the ſaid A. B. in an action wherein one G. H. was plaintiff, and the ſaid A. B. was defendant, you, the ſaid Sheriff, Deputy-Sheriff, and Conſtable, are ſeverally required to receive the ſaid A. B. into your cuſtody, and him forthwith to convey to the common gaol of ſaid county; and you the ſaid keeper are hereby required to receive the ſaid A. B. in order to his being taken in execution upon the ſuit aforeſaid. Hereof fail not; and of this warrant and your doings thereon you are to make due return to myſelf, as ſoon as may be. Given under my hand and ſeal, the day of Anno Domini

Juſtice of the Peace.

And if the plaintiff ſhall not, within thirty days next after ſuch ſurrender, in caſe the ſame ſhall be made upon *ſcire facias*, or if the ſame ſhall be made upon the original proceſs, then within thirty days next after final judgment, take the ſaid principal in execution, he ſhall be diſcharged upon his paying the legal priſon fees.

SECT. 4. *Be it further enacted*, That it ſhall be the duty of any officer as aforeſaid, upon the requeſt of ſuch perſon or perſons being bail as aforeſaid, to repair to ſaid Juſtice's Court, in order to receive the principal as aforeſaid; and ſuch officer ſhall be allowed and paid by the bail for his receiving and committing ſaid principal on ſaid warrant or mittimus, the ſame fees as are provided by law for committing any defendant to priſon on meſne proceſs. And all and every ſuch officer or officers ſhall have the like power and authority, and ſhall be under the like obligations, in all reſpects and regards whatſoever, to execute and return ſuch warrant or mittimus, iſſued by ſuch Juſtice, upon the ſurrender as aforeſaid, as he or they by law have and are under to execute and return any writ or execution whatever; and ſhall be ſubject

and

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and liable to all the like action or actions, for any fraud or falſehood and neglect of their duty, as is provided by law in other caſes.

[This Act paſſed *March* 7, 1804.]

BEGGARS, &c.

AN Act for ſuppreſſing and puniſhing of Rogues, Vagabonds, common Beggars, and other idle, diſorderly and lewd perſons.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That there ſhall be erected, built, or otherwiſe provided, by the Court of General Seſſions of the Peace, in every county within this Commonwealth, at the charge of ſuch county, a fit and convenient houſe or houſes of correction, (where ſuch houſe is not already provided) with convenient accommodations thereunto adjoining and belonging; to be uſed and employed for the keeping, correcting and ſetting to work of rogues, vagabonds, common beggars, and other idle, diſorderly and lewd perſons.

And until ſuch houſe or houſes of correction be erected, built, or otherwiſe provided, the common priſon in each county may be made uſe of for that purpoſe.

And be it further enacted by the authority aforeſaid, That the Court of General Seſſions of the Peace in each county, may nominate and appoint, at their will and pleaſure, a ſuitable perſon to be maſter of ſuch houſe of correction. And alſo to make, ordain and eſtabliſh ſuch rules and orders as may be neceſſary (not repugnant to the laws of this Commonwealth) for the ruling, governing and puniſhing of ſuch perſons as may be there committed; and ſuch rules and orders by them made, ſhall be in force, and put in execution. And any Juſtice of the Peace, as well as the Court of Seſſions, may ſend and commit unto the ſaid houſe, to be kept and governed according to the rules and orders thereof, all rogues, vagabonds and idle perſons, going about in any town or place in the county, begging; or perſons uſing any ſubtle craft, juggling or unlawful games or plays, or feigning themſelves to have knowledge in phyſiognomy, palmiſtry, or pretending that they can tell deſtinies, of fortunes, or diſcover where loſt or ſtolen goods may be found; common pipers, fiddlers, runaways, ſtubborn ſervants or children, common drunkards, common night-walkers, pilferers, wanton and laſcivious perſons in ſpeech, conduct or behaviour; common railers or brawlers, ſuch as neglect their callings or employment, miſ-ſpend what they earn, and do not provide for themſelves or the ſupport of their families—upon conviction of any of the offences or diſorders aforeſaid, complaint thereof having been made in writing.

And

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And be it further enacted by the authority aforeſaid, That the maſter of ſuch houſe of correction, to be appointed as aforeſaid, ſhall have power and authority, and ſhall ſet all ſuch rogues, vagabonds, beggars, and other lewd, idle and diſorderly perſons as aforeſaid, that ſhall be duly ſent or committed unto his cuſtody, to work and labour (if they be able) for ſuch time as they ſhall continue and remain in the ſaid houſe; and to puniſh them by putting ſhackles or fetters upon them; and alſo from time to time, in caſe they be ſtubborn, diſorderly, idle or refractory, and do not perform their taſks, and in good condition, according as they ſhall be reaſonably ſtinted, to abridge them of their food, as the caſe ſhall require, until they be reduced to better order.

And be it further enacted by the authority aforeſaid, That when any perſon ſhall be committed to the ſaid houſe, the Selectmen of the town to which he or ſhe belongs (if within the government) ſhall, at the town's expenſe, provide ſuitable materials, and ſuch as ſhall be convenient and neceſſary to keep the perſon, thus committed, to work during his or her continuing there, and deliver the ſame to the maſter or keeper of the houſe for that purpoſe. And when any ſtubborn children or ſervants, under the immediate care and government of parents or maſters, ſhall be committed to the ſaid houſe, the parent or maſter (if able) ſhall take care and provide ſuch things as may be neceſſary to keep him or her to work and labour during his or her abode in the ſaid houſe. And the perſons committed ſhall be allowed two third parts only of what they earn, and the reſidue ſhall be to the uſe of the maſter or keeper of the houſe; unleſs ſuch perſons are maſters or heads of families, then the whole profit of their labour, or ſo much thereof as the Court of Seſſions ſhall order, ſhall be for the relief and ſupport of ſuch perſons and their families. And if any perſon committed as aforeſaid, ſhall be unable to work, or be weak and ſick, or the profits of whoſe work ſhall not be ſufficient for ſupporting him or her, then to be comfortably provided for and taken care of by the maſter of the ſaid houſe, who ſhall be reimburſed the ſame by the parent, maſter, town, or the government, who are by law obliged to maintain and ſupport ſuch perſons when unable to ſupport themſelves, as the caſe may require.

And be it further enacted by the authority aforeſaid, That the maſter of the ſaid houſe of correction ſhall, for his care, labour and ſervice in looking after the ſeveral perſons that ſhall from time to time be committed to his care and cuſtody, over and above one third part of their net earnings, have ſuch reaſonable allowance made him as the Juſtices in Seſſion ſhall order and direct, to be paid him by the parent or maſter of ſuch as are under their immediate care and cuſtody, otherwiſe by the town to which ſuch perſons belong, if within this government, or at the charge of the government if they belong to no particular town within it. And the maſter or keeper of every ſuch houſe ſhall keep an exact account of all profits,

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its and earnings that ſhall ariſe from the labour of all ſuch as ſhall be committed unto his care and cuſtody, as well as the particular time of their commitment and liberation, and preſent the ſame account (upon oath, if required) unto the Juſtices of the Peace, for the ſame county, annually, and alſo whenever he ſhall by them be thereunto directed, and in default thereof, may be amerced by the ſaid Juſtices in their Seſſions, not exceeding *one hundred pounds*.

Provided nevertheleſs, That whenever any perſon, committed as aforeſaid, ſhall apply to the maſter of the ſaid houſe, for a diſcharge therefrom, the ſaid maſter ſhall ſignify the ſame to the overſeers of the poor of the town in which ſuch houſe of correction ſhall be, or to the overſeers of the poor of ſuch town as the perſon ſo committed ſhall belong to, and the major part of either of the overſeers of the poor aforeſaid, upon its being made to appear to them that the ends of ſuch commitment have been anſwered, are hereby empowered to iſſue their order to the maſter of ſuch houſe of correction to diſcharge the ſaid perſon from his or her ſaid confinement, the charges ariſing therefrom being firſt paid in manner as is herein before provided, and the ſaid maſter is hereby required to diſcharge him or her accordingly.

Be it further enacted by the authority aforeſaid, That no perſon being an African or negro, other than a ſubject of the emperor of Morocco, or a citizen of ſome one of the United States, to be evidenced by a certificate from the Secretary of the State of which he ſhall be a citizen, ſhall tarry within this commonwealth for a longer time than two months, and upon complaint made to any Juſtice of the Peace within this Commonwealth, that any ſuch perſon has been within the ſame more than two months, the ſaid Juſtice ſhall order the ſaid perſon to depart out of this Commonwealth; and in caſe that the ſaid African or negro ſhall not depart as aforeſaid, any Juſtice of the Peace within this Commonwealth, upon complaint and proof made that ſuch perſon has continued within this Commonwealth ten days after notice given him or her to depart as aforeſaid, ſhall commit the ſaid perſon to any houſe of correction within the county, there to be kept unhard labour agreeably to the rules and orders of the ſaid houſe, to til the Seſſion of the Peace, next to be holden within and for the ſaid county; and the maſter of the ſaid houſe of correction is hereby required and directed to tranſmit an atteſted copy of the warrant of commitment to the ſaid Court, on the firſt day of their ſaid ſeſſion; and if upon trial at the ſaid Court, it ſhall be made to appear that the ſaid perſon has thus continued within the Commonwealth contrary to the tenor of this act, he or ſhe ſhall be whipped not exceeding ten ſtripes, and ordered to depart out of this Commonwealth within ten days; and if he or ſhe ſhall not ſo depart, the ſame proceſs ſhall be had, and puniſhment inflicted, and ſo *toties quoties*.

[This act paſſed *March* 26, 1788.]

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An Act in addition to an Act entitled "An Act for suppressing Rogues, Vagabonds, Common Beggars, and other idle, disorderly and lewd persons."

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Courts of General Sessions of the Peace in their respective counties where the circumstances may require it, be, and hereby are authorised and empowered annually to appoint three or five suitable and discreet freeholders of their county, living near the house of correction, to be overseers of such house; who shall have power to see that the rules appointed by the said Court for the government of the house and the persons therein confined be duly observed; and also to examine the accounts of the keeper with respect to the earnings of the prisoners, and the expense of the institution, and they shall keep a register of all their proceedings, fairly written. They shall have power to make contracts for work to be done in the house, with any person disposed to supply the materials, and to make contracts for letting out any of the persons confined, to employers living, in the estimation of the overseers, conveniently near to the house of correction for the overseers or the master of the house to have the general inspection of the persons so let out, and of the treatment they receive. And the overseers shall receive out of the wages of the prisoners such reasonable compensation as the Court of Sessions shall allow.

SECT. 2. *Be it further enacted,* That the said Court of Sessions shall at any term have authority to remove any of the overseers, and to replace others for the remainder of the year, and to fill up any vacancies of the overseers, made by death, resignation or otherwise. They shall also at every term inquire into the state of the house of correction, and examine the register and accounts of the overseers and masters, and make such further regulations and alterations in the treatment and government of the prisoners as they shall judge necessary or proper, and not repugnant to the laws of the Commonwealth.

SECT. 3. *Be it further enacted by the authority aforesaid,* That when it shall be made to appear to any two Justices *quorum unus,* that any person being within their county is lunatick, and so furiously mad as to render it dangerous to the peace or the safety of the good people for such lunatick persons to go at large; the said Justices shall have full power by warrant under their hands and seals to commit such persons to the house of correction, there to be detained till he or she be restored to his or her right mind, or otherwise delivered by due course of law. And every person, so committed, shall be kept at his or her own expense, if he or she have estate, otherwise at the charge of the person or town upon whom his or her maintenance was regularly to be charged, if he or she had not been committed; and he or she shall, if able, be put to work during his or her confinement.

SECT.

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SECT. 4. *Be it further enacted by the authority aforesaid*, That all privileges granted to towns to provide work for their inhabitants at the county house of correction, and also to provide for their support there, shall remain in force notwithstanding this Act; but the persons confined shall be wholly under the government of the overseers and master to be appointed by the Court of Sessions as herein provided; and all charges attending the business more than the wages of the prisoners, or such expenses as arise and ought to be borne by the individuals out of their estates, shall be paid out of the county treasury, when allowed by the Court of Sessions.

[This act passed *Feb.* 17, 1798.]

FORMS.

I.

Complaint against a person liable to be sent to the House of Correction.

To S. T. Esq. one of the Justices of the Peace, within and for the County of C.

Complains upon oath A. B. of, &c. That C. D. now resident in the said town of ——— is a Rogue, or Person, &c. [*Here insert the offence with which such person is charged, among those which are described in the law aforesaid.*]

Wherefore your complainant prays, that the said C. D. may be apprehended, and dealt with according to the laws of the Commonwealth, in such case made and provided.

Dated, &c. A. B.

C——ff. Sworn to before me, the subscriber, one of the Justices of the Peace within and for the said County, this —— day of —— A. D. 18 S. T.

II.

Warrant thereon.

C——ff. To the Sheriff of the said County of C. or either of his Deputies, or any of the Constables of the Town of ——— in said C. Greeting.

(L. S.) Whereas the foregoing Complaint hath this day been made upon oath before me, the subscriber, one of the Justices of the Peace, for the said County of C: These are, therefore, in the name of the Commonwealth of Massachusetts, to require and command you forthwith to apprehend C. D. therein named, and bring him before me, or some other of the Justices of the Peace for the said County of C. to answer the said Complaint, and to be dealt with as to law and justice shall appertain. Given under my hand and seal, the —— day of —— A. D. 18

Or

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Or the Warrant may be made including or reciting such Complaint, as follows, viz.

C——ſſ. To the Sheriff of the ſaid County, or either of his Deputies, or any of the Conſtables of the Town of ——— in ſaid County. Greeting.

Whereas A. B. of, &c. hath this day complained upon oath to me, the ſubſcriber, one of the Juſtices of the Peace for the ſaid County of C. That, &c. [*Here inſert the ſubſtance of the Complaint*] Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to apprehend the ſaid C. D. and bring him before me, or ſome other of the Juſtices of the Peace for the ſaid County of C. to anſwer the ſaid Complaint, and to be dealt with as to law and juſtice ſhall appertain. Given under my hand and ſeal, the —— day of —— A. D. 18 S. T.

III.

Mittimus.

C——ſſ. To the Sheriff of the ſaid County of C. or either of his Deputies, or any of the Conſtables of the Town of —— in ſaid C. Greeting.

(L. S.) Whereas it appears to me, the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid County of C. upon the teſtimony of ——— (or divers witneſſes) duly ſworn, That C. D. who is this day brought before me, by virtue of a warrant iſſued againſt him, on the complaint of A. B is, &c. [*Here inſert the offence of which he is convicted.*] You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to take the ſaid C. D. and him carry to the houſe of correction in ſaid ———, (or gaol in ſaid ——, as the houſe of correction, there being no ſuch houſe otherwiſe provided in ſaid County) and him deliver to the keeper thereof; and the ſaid keeper is alike required to receive the ſaid C. D into his cuſtody in ſaid houſe, (or gaol) and him there ſet to work and labour, and otherwiſe deal with as the law of the Commonwealth in ſuch caſes directs, and until he be therefrom diſcharged by due order of law. Given under my hand and ſeal this ——— day of —— A. D.

S. T.

Proceſs againſt a Lunatick.

Complaint.

To S. T. and J. F. Eſqrs. two of the Juſtices of the Peace, within and for the County of C. *quorum unus.*

Complains upon oath, A. B. of, &c. That C. D. of (*or* now reſident in) P. in ſaid County, is, in the opinion of your Complainant,

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ant, a perſon who is lunatick, and ſo furiouſly mad as to render it dangerous to the peace or the ſafety of the good people for him to go at large. He therefore prays that —— may be ſecured, as by law in ſuch caſes is provided. A. B.

The above Complaint is ſworn to, this —— day of —— A. D. before me. S. F. Juſtice of the Peace.

II.

Mittimus.

C——ff. To the Sheriff of the ſaid County of C. or either of his Deputies, or any Conſtables of the Town of ———, in ſaid County. Greeting.

Whereas it appears to us, the ſubſcribers, two of the (L. S.) Juſtices of the Peace within and for the ſaid County of C. (L. S.) *quorum unus*, on the complaint of A. B. of, &c.; that C. D. of, &c. is lunatick, and ſo furiouſly mad as to render it dangerous to the good people for him to go at large. You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to take the ſaid C. D. and him carry to the houſe of correction (*or* to the gaol in ſaid ——— as the houſe of correction, there being no ſuch houſe otherwiſe provided in ſaid County) in ſaid ———, and him deliver to the keeper of ſaid houſe (or gaol,) and the ſaid keeper is alike required to receive the ſaid C. D. into his cuſtody in ſaid houſe, (or gaol) and him there ſafely keep and detain until —— be reſtored to his right mind, or otherwiſe delivered therefrom by due courſe of law.

Given under our hands, this, —— day of ——— A. D.

S. T.

J. F.

BREAD.

An Act for regulating the Manufacture and Sale of Bread.

WHEREAS it is expedient that ſo neceſſary an article of conſumption as Bread ſhould be ſo far regulated, that the citizens of this Commonwealth might not be expoſed to fraud as to the weight of bread; and as it is highly reaſonable that bread, like every other article of commerce or manufacture, ſhould be ſold by ſome common ſtandard, eaſily diſcernible by the purchaſer:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That from and after the firſt day of *April* next, all ſoft bread, whether baked in loaves or biſcuit, which ſhall be expoſed to ſale by any baker or other perſon, ſhall be ſold by weight.

SECT. 2. *Be it further enacted by the authority aforeſaid,* That all ſoft biſcuit which ſhall hereafter be offered for ſale, ſhall weigh

four

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four or *eight* ounces, and be marked with the maker's name; and all loaves of ſoft bread ſhall be of ſome one of the following weights, viz. *one* pound, *two*, *three* or *four* pounds; and if any baker, or other perſon, ſhall offer or expoſe to ſale any ſoft bread or biſcuit, which ſhall not ſeverally conform to one of the weights beforementioned, every ſuch perſon, ſo offending, ſhall forfeit and pay the ſum of *ten dollars*; to be recovered by action of debt before any Juſtice of the Peace, within and for the county where ſuch offence ſhall happen, by any perſon who ſhall ſue for the ſame, together with legal coſt; one half of the penalty aforeſaid to be to his own uſe, and the other half to the uſe of the poor of the town where ſuch baker reſides.

SECT. 3. *And be it further enacted*, That all laws heretofore made for regulating the aſſize of bread, be and hereby are repealed, from and after the firſt day of *April* aforeſaid; excepting ſo far as relates to the recovery of any forfeiture, fine, or penalty incurred, or which may be incurred previous to that time by a breach of any of ſaid laws.

SECT. 4. *Be it further enacted*, That this act ſhall continue and be in force two years from and after the firſt day of *April* next.

[This act paſſed *February* 27, 1799.]

CATTLE.

IF any perſon whoſe creatures are impounded, damage feaſant, ſhall think the damages mentioned in the memorandum left with the pound keeper, as the law directs, (viz. in writing under his hand, mentioning the cauſe of impounding, and the ſum he demands in damage of the owner) are unreaſonable, he may have the ſame aſcertained by two or more diſintereſted judicious perſons, being thereto appointed and duly ſworn by ſome Juſtice of the Peace for the ſame county, or by the town clerk, where no Juſtice of the Peace is; which ſum thus aſcertained ſhall be taken inſtead of the ſum firſt left with the pound keeper. And if the owner doth not within twenty-four hours after notice, as aforeſaid, pay the damages and charges of impounding, or replevy the creatures, the party treſpaſſed upon may apply to a Juſtice of the Peace or the town clerk, for a warrant, directed to two or more diſintereſted judicious perſons; which warrant the town clerk of the ſame town, or any Juſtice of the Peace of the ſame county, may iſſue and make returnable into the town or diſtrict clerk's office of the ſame town or diſtrict, as ſoon as the buſineſs is performed, and may alſo adminiſter an oath unto the perſons appointed, faithfully and impartially to eſtimate the damage done the party injured;

and

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and alſo to appraiſe ſo many of the creatures impounded, as ſhall be ſufficient to anſwer the damages and all charges.

[This is extracted from an act paſſed *February* 14, 1789, declaring the cauſes for which cattle may be impounded, &c.]

See under the article REPLEVYING of CATTLE, &c.

FORM

Of a Warrant for aſcertaining the damage done by creatures taken up and impounded, (to be iſſued at the requeſt of the owners of ſuch creatures.)

To A. B. and C. D. of ———, two diſintereſted and judicious perſons, Greeting.

You are hereby appointed and empowered faithfully and impartially to eſtimate upon oath the damage done to E F. by [*here deſcribe the creatures*] which for that cauſe have been taken up by G. H and impounded in the town pound *(or at whatever place they may be impounded.)*

Given under my hand this —— day of ———, A. D. 18

S. T. Juſtice of the Peace.

Oath.

D———ſſ. The above (*or* within named) A. B. and C. D. perſonally appeared and made oath, That in eſtimating the above (*or* within) mentioned damages, they would act faithfully and impartially, according to their beſt ſkill and judgment.

Before me, S. T. Juſtice of the Peace.

Appraiſers' Return,

———, ——, 18

Purſuant to the within warrant, we have conſidered the damage done by the creatures within mentioned, and do upon oath eſtimate the ſame at ——— A. B.

C. D.

Warrant for eſtimating the damages done by creatures taken up and impounded (to be iſſued on the application of the perſon who impounded them)

To A. B. and C. D. of ———, two diſintereſted and ſufficient perſons, Greeting.

You are hereby appointed and empowered faithfully and impartially to eſtimate upon oath the damage done to E. F. by [*here deſcribe the creatures*] which for that cauſe have been taken up and impounded by G. H. *(in ſuch pound or in ſuch place)* and alſo in like manner to appraiſe ſo many of the ſaid creatures, as ſhall be ſufficient to anſwer the ſaid damages and all charges.

Hereof

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Hereof fail not, and make return of this warrant into the clerk's office of the ſaid town of ———, as ſoon as the buſineſs ſhall be performed.

Given under my hand this —— day of ——, A. D. 18

S. T. Juſtice of the Peace.

Oath.

D———ſſ. The above (*or* within) named A. B. and C. D. perſonally appeared and made oath, That in eſtimating the within mentioned damages, and appraiſing any of the within mentioned creatures, they would act faithfully and impartially, according to their beſt ſkill and judgment.

Before me, S. T. Juſtice of the Peace.

Appraiſers' Return.

Purſuant to the within warrant, we have conſidered the damage done by the creatures within mentioned, and do upon oath eſtimate the ſame at ———.

We have alſo appraiſed the following creatures, (*or* the ſaid creatures) to anſwer ſaid damages, viz. *(here inſert the kind and price.)*

A. B.

C. D.

CIVIL ACTIONS.

An Act deſcribing the Power of Juſtices of the Peace in Civil Actions.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That all manner of debts, treſpaſſes, and other matters not exceeding the value of four pounds (and wherein the title of real eſtate is not in queſtion) ſhall and may be heard, tried, adjudged and determined, by any Juſtice of the Peace within his county, and the Juſtices are ſeverally empowered to grant ſummons, capias and attachment, at the requeſt of any perſon applying for the ſame, directed to ſome proper officer within the ſame county, empowered by law to execute the ſame. And ſuch ſummons or capias and attachment ſhall be duly ſerved by ſuch officer, ſeven days at the leaſt before the day therein ſet for trial, otherwiſe the party ſued ſhall not be held to anſwer thereon; and, if after ſuch proceſs ſhall be duly ſerved, the party ſued, after being duly called, ſhall not appear to anſwer to the ſame ſuit, the charge againſt him in the declaration ſhall be taken to be true, and the Juſtice ſhall give judgment againſt him for ſuch damages as he ſhall find the plaintiff to have ſuſtained, with coſts; and if the perſon ſued ſhall appear to defend the ſuit, or oppoſe the ſame, the Juſtice ſhall award ſuch damages

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ages as he ſhall find the plaintiff to have ſuſtained. *Provided*, That no more damages than the ſum of *eighty ſhillings* ſhall be awarded in any action originally brought or tried before a Juſtice of the Peace; but if the plaintiff ſhall not ſupport his action, or ſhall fail to proſecute or become non-ſuit, the Juſtice ſhall award to the party ſued his reaſonable coſts, taxed as the law directs. And upon all judgments given by a Juſtice of the Peace in civil actions he ſhall award execution thereon in form by law preſcribed.

And be it further enacted, That when an action of treſpaſs ſhall be brought before any Juſtice of the peace, and the defendant ſhall plead the general iſſue, he ſhall not be allowed to offer any evidence that may bring the title of real eſtate in queſtion. And when the defendant in any ſuch action ſhall plead the title of himſelf or any other perſon in juſtification, the Juſtice, upon having ſuch plea filed, ſhall order the defendant to recognize to the adverſe party in a reaſonable ſum, with ſufficient ſurety or ſureties, to enter the ſaid action at the next Court of Common Pleas to be holden within the ſame county, and to proſecute the ſame in the ſame manner as upon an appeal from a Juſtice's judgment; and if ſuch pleader ſhall refuſe ſo to recognize, the Juſtice ſhall render judgment againſt him in the ſame manner as if he had refuſed to make anſwer to the ſame ſuit. And either party in ſuch cauſe ſhall be allowed to appeal from the judgment of the Court of Common Pleas in the ſame manner as if the ſuit had been originally commenced there. And every Juſtice of the Peace ſhall have power by publick proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he ſhall not be of council to either party, or undertake to adviſe or aſſiſt any party, in ſuit before him.

And be it further enacted, That each Juſtice of the Peace ſhall keep a fair record of all his proceedings; and when any Juſtice of the Peace ſhall die before a judgment given by him is paid and ſatisfied, it ſhall be in the power of any Juſtice of the Peace in the ſame county to grant a *ſcire facias* upon the ſame judgment, to the party againſt whom ſuch judgment was rendered up, for him to ſhew cauſe, if any he hath, why execution ſhould not be iſſued againſt him. And although the coſt and debt awarded by the deceaſed Juſtice, when added together, ſhall amount to more than *eighty ſhillings*, it ſhall be no bar upon ſuch *ſcire facias*, but judgment ſhall be given thereon for the whole debt and coſt, together with the coſt ariſing upon the *ſcire facias*. *Provided always*, That either party may appeal from the judgment as in other perſonal actions, where judgment is given by a Juſtice of the Peace. And every Juſtice of the Peace who ſhall have complaint made to him, that a judgment given by a Juſtice of the ſame county, then deceaſed, remains unſatisfied, ſhall iſſue his ſummons to the perſon, in whoſe poſſeſſion the record of the ſame judgment is, directing him to bring and to produce to him the ſame record; and if ſuch perſon

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perſon ſhall contemptuouſly refuſe to produce the ſame record, or ſhall refuſe to be examined reſpecting the ſame upon oath, the Juſtice may puniſh the contempt by impriſonment until he ſhall produce the ſame, or until he ſubmits to be examined as aforeſaid; and when the Juſtice is poſſeſſed of ſuch record, he ſhall tranſcribe the ſame upon his own book of records, before he ſhall iſſue his *ſcire facias*, and ſhall deliver the original back again to the perſon who ſhall have produced it, and a copy of ſuch tranſcription, atteſted by the tranſcribing Juſtice, ſhall be allowed in evidence in all caſes where an authenticated copy of the original might be received.

And it is further enacted, That when an executor or adminiſtrator ſhall be guilty of committing waſte, whereby he is rendered unable to pay the judgment recovered before any Juſtice of the Peace, againſt the goods and eſtate of the deceaſed in his hands, out of the ſame, the Juſtice may proceed againſt the proper goods and eſtate of ſuch executor or adminiſtrator, in the ſame manner as the Court of Common Pleas are empowered to do.

It is alſo enacted, That each Juſtice of the Peace may grant *ſubpœnas* for witneſſes in all civil actions and cauſes pending before the Supreme Judicial Court, Court of Common Pleas, Court of General Seſſions of the Peace, and before him or any other Juſtices, and in all civil actions and cauſes pending before arbitrators and referees.

And be it further enacted, That any party aggrieved at the judgment of any Juſtice of the peace in a civil action where both parties have appeared and plead, may appeal therefrom to the next Court of Common Pleas to be held within the ſame county; and ſhall, before his appeal is allowed, recognize with a ſurety or ſureties in ſuch reaſonable ſum as the Juſtice ſhall order, not exceeding *ten pounds*, to pay all intervening damages and coſts, and to proſecute his appeal with effect, and ſhall be held to produce a copy of the whole caſe at the court appealed to, and both parties ſhall be allowed to offer any evidence upon the trial at the Common Pleas, in the ſame manner as if the cauſe had been originally commenced there. And no other appeal or review ſhall be had on ſuch action, after one trial at the Court of Common Pleas. And the Court of Common Pleas, when any perſon recognized as beforementioned to bring forward an action of treſpaſs, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, ſhall give judgment for ſuch ſum in damages as the plaintiff hath declared for, together with all reaſonable coſts which accrued both in the ſame court, and before the Juſtice. And the Court of Common Pleas ſhall, when any appellant thereto ſhall fail to proſecute his appeal, or if he ſhall neglect to produce a copy of the caſe, affirm the former judgment upon the appellee's complaint,

and

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and award such additional damages as shall have arisen in consequence of the said appeal and cost.

Be it further enacted by the authority aforesaid, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person, under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence under the general issue, which by law he might avail himself of under any special plea in excuse or justification; any law, usage, or custom to the contrary notwithstanding.

Be it further enacted by the authority aforesaid, That no action shall be sustained in any Court of Common Pleas within this Commonwealth, where the damage demanded shall not exceed the sum of *four pounds*, unless by an appeal from a Justice of the Peace, saving such actions wherein the title to real estate may be concerned; and if upon any action originally brought before the Court of Common Pleas, judgment shall be recovered for no more than *four pounds*, debt or damage, in all such cases the plaintiff shall be entitled for his costs, to no more than one quarter part of the amount of the debt or damage so recovered.

Provided nevertheless, and be it further enacted by the authority aforesaid, That all actions already commenced, or which may be commenced before the first day of *June* next, shall be proceeded upon, heard, and determined, in the same manner as they might have been before the passing of this act, any thing herein to the contrary notwithstanding.

[This act passed *March* 11, 1784.]

An act in addition to an act, entitled "An act describing the power of Justices of the Peace, in civil actions;" passed the eleventh day of March, seventeen hundred and eighty-four.

SECT. 1 *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all civil actions, wherein the debt or damages does not exceed twenty dollars, (and wherein the title of real estate is not in question,) shall and may be heard, tried, adjudged and determined, by any Justice of the Peace within his county, and the justices are severally empowered and required to hear and determine all such actions, in the same form and manner as is required by the act, to which this is in addition.

SECT. 2. *Be it further enacted*, That no action shall be sustained in any Court of Common Pleas, within this commonwealth, where the damage demanded does not exceed twenty dollars, unless by appeal from a Justice of the Peace, saving such actions, wherein the title to real estate may be concerned; and if upon any action originally brought before the Court of Common Pleas, judgment shall be recovered for no more than twenty dollars debt

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or damage; in all such cases, the plaintiff shall be entitled for his costs, to no more than one quarter part of debt or damage so recovered, any law, usage, or custom to the contrary notwithstanding: *Provided nevertheless*, That all actions already commenced, or which may be commenced before the first day of June next, shall be proceeded upon, heard, and determined in the same manner, as they might have been, before the passing of this act, any thing herein to the contrary notwithstanding.

[This act passed *March* 12, 1808.]

The following is part of an act passed *October* 30, 1784, entitled "An Act prescribing Forms of Writs in Civil Causes, and directing the mode of proceeding therein."

And be it enacted, That the several forms of writs and processes hereunder written, shall be and hereby are established to be the forms to be granted and used in civil causes, triable before a Justice of the Peace, *that is to say:*

Summons for Appearance.

———, ss.

(L.S.) To the Sheriff of the said county of ———, or either of his Deputies, or the Constables of the town of ———, within the said county, or to any or either of them, Greeting.

In the name of the Commonwealth of Massachusetts, you are required to summon and give notice unto R. P. of ——— aforesaid, [*addition*] (if he may be found in your precinct) that he appear before me J. D. Esq. one of the Justices of the Peace for the county aforesaid, at my dwelling house, in ——— on —— the —— day of ——, at —— of the clock in the —— noon; then and there to answer to E. L. of ———, [*addition*] in a plea of ———, to the damage of the said E. L. (as he saith) the sum of ———, as shall then and there appear, with other due damages. And of this writ, with your doings therein, you are to make true return unto myself, at or before the said ——— day of ———.

Dated at ——— aforesaid, the —— day of ———, in the year of our Lord, ———. J. D.

Capias or Attachment.

———, ss.

(L.S.) To the Sheriff of the said county of ———, or either of his Deputies, or the Constables of the town of ———, within the said county, or to any or either of them, Greeting.

In the name of the Commonwealth of Massachusetts, you are required to attach the goods or estate of R. P. of ——— aforesaid, [*addition*] to the value of ———, and for want thereof, to

E. take

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take the body of the said R. P. (if he may be found in your precinct) and him safely keep, so that he may be had before me J. D. Esq. one of the Justices of the Peace for the county aforesaid, at my dwelling house in ———, on —— the —— day of ——— at —— of the clock in the —— noon; then and there to answer to E. L. of ———, [*addition*] in a plea of ——, to the damage of the said E L. (as he saith) the sum of ———, as shall then and there appear, with other due damages. Hereof fail not, and make due return of this writ, and of your doings therein, unto myself, at or before the said —— day of ———.

Dated at ——— aforesaid, the —— day of ——, in the year of our Lord, ———. J. D.

Summons when Goods are attached.

———, ff.

(L.S.) To R. P. of ———, in the county of ———, [*addition*] Greeting.

In the name of the Commonwealth of Massachusetts, you are commanded to appear before me J. D. Esq. one of the Justices of the Peace for the county aforesaid, at my dwelling house, in ———, on —— the —— day of ———, at —— of the clock in the —— noon, to answer unto E. L of ———, [*addition*] in a plea of ———, which plea the said E. L. hath commenced to be heard and tried before me; and your goods or estate are attached to the value of ———, for security to satisfy the judgment which the said E L. may recover upon the aforesaid trial. Fail not of appearance at your peril.

Dated at —— aforesaid, the —— day of ——, in the year of our Lord, ——. J. D.

Execution.

Commonwealth of Massachusetts.

———, ff

(L.S.) To the Sheriff of our said county of ———, or either of his Deputies, or the Constables of the town of ——— within our said county, or any or either of them, Greeting.

Whereas E. L. of ———, [*addition*] on the —— day of —— before J. D. Esq. one of our Justices of the Peace for our county aforesaid, recovered judgment against R. P. of ———, [*addition*] for the sum of —— debt or damage, and —— shillings and —— pence for charges of suit, as to us appears of record, whereof execution remains to be done: We command you therefore, that of the money of the said R. P. or of his goods or chattels within your precinct, at the value thereof in money, you cause to be levied, paid and satisfied unto the said E. L. the aforesaid sums, being —— pounds —— shillings and —— pence, in the whole; and also that out of the money, goods or chattels of the said R. P.

you

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you levy —— more for this writ, together with your own fees. And for want of such money, goods, or chattels of the said R. P. to be by him shewn unto you, or found within your precinct, to the acceptance of the said E. L. for satisfying the aforesaid sums: We command you to take the body of the said R. P. and him commit unto our goal in ———, and we command the keeper thereof accordingly, to receive the said R. P. into our said gaol, and him safely to keep, until he pay the full sums abovementioned, with your fees, or that he be discharged by the said E. L. the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming.

Witness our said Justice at ——, the —— day of ——, in the year of our Lord, ——. J. D.

The form of a writ of *Scire Facias* upon a judgment recovered before a Justice of the Peace is to be the same, *mutatis mutandis*, as that which issues from the Supreme Judicial Court or Court of Common Pleas, as follows, viz.

Scire Facias.

Commonwealth of *Massachusetts.*

(L.S.) ——, ff.

To the Sheriff of our county of, ——— or his deputy, Greeting.

Whereas C. D. of ———, [*addition*] before our Justices of our Court of ———, holden for or within our said county of ——, at —— on the —— day of ———, in the year of our Lord ——, by the consideration of our said Justices, recovered against A B. of ———, [*addition*] the sum of —— pounds —— shillings and —— pence, debt or damage; and also —— pounds —— shillings and —— pence, for costs and charges by him about his suit in that behalf expended, whereof the said A. B. is convict, as to us appears of record; and although judgment be thereof rendered, yet the execution of the said debt or damage and costs doth yet remain to be made, whereof the said C. D hath made application to us to provide remedy for him in that behalf: Now, to the end that justice be done, we command you, that you make known unto the said A. B. that he be before our Justices of our said —— Court of —— to be holden within or for our said county of ——, at —— on the —— day of ———, to shew cause (if any he hath) wherefore the said C. D. ought not to have his execution against him the said A. B. for his debt or damage and costs aforesaid; and further to do and receive that which our said court shall then consider; and there and then have you this writ, with your doings therein. Herein fail not.

Witness E. H. Esq. at ——, the —— day of ——, in the year of our Lord, ———.

A. D. *Clerk.*

And

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And be it further enacted by the authority aforesaid, That the clerk of each town respectively, within this Commonwealth, as well as the clerks of the several courts aforesaid, may and are hereby respectively, empowered to grant summons for witness in civil causes, directed to the person to be summoned for witness; which summons shall be made out in the form following, *that is to say:*

Subpœnas for Witnesses.

———, ff.

To A. B. of , [*addition*] Greeting.

You are hereby required, in the name of the Commonwealth of Massachusetts, to make your appearance before the Justices of the next to be holden at within and for the county of on the Tuesday of , to give evidence of what you know relating to an action or plea of , then and there to be heard and tried betwixt A. B. of , [*addition*] plaintiff, and D. E. of , [*addition*] defendant. Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided.

Dated at the day of , in the year of our Lord, A. D. *Clerk.*

And be it further enacted, That every Justice of the Peace may and hereby is empowered to grant summons for witnesses in civil causes triable before himself, such summons to be directed as, and similar to, the summons for witnesses in civil causes as aforesaid, *mutatis mutandis*. And if any person or persons who shall be served with lawful process, or summons to testify, depose or give evidence concerning any cause or matter depending in any of the courts aforesaid, or before any Justice of the Peace as aforesaid, and having tendered unto him or them such reasonable sum or sums of money for his or their costs and charges, as, having regard to the distance of the places, is necessary to be allowed in that behalf, do not appear according to the tenor of the process or summons, having no reasonable let or impediment to the contrary, then the person so making default shall be liable to the action of the aggrieved party for all damages by him sustained by such default, and the court or Justice of the Peace shall have power, by attachment, to bring such contemptuous witness into court, or before him, and to fine him at discretion, not exceeding the sum of *six pounds*, and shall order him to pay the cost of such attachment.

And be it further enacted, That when an action shall be brought to recover a debt due on book accounts, an account stated by the parties, *a quantum meruit quantum valebat*, or for services done upon an agreed price, the defendant may file any account he hath in the clerk's office, seven days before the sitting of the Court of Common Pleas where the action is brought, or if the suit is before

a

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a Juſtice of the Peace the account ſhall be filed before the Juſtice four days before the day of trial, and upon the general iſſue give the ſame in evidence againſt the plaintiff's demand. And if upon the trial it ſhall appear that there is a balance due to the defendant, he ſhall recover the ſame in the ſame manner as if he had brought his action therefor, and where a plaintiff ſhall at the ſame court bring divers actions upon demands which might have been joined in one, he ſhall recover no more coſts than in one action only.

And be it further enacted by the authority aforeſaid, That no ſummons, writ, declaration, proceſs, judgment, or other proceedings in the courts or courſe of Juſtice ſhall be abated, arreſted, quaſhed, or reverſed, for any kind of circumſtantial errours or miſtakes when the perſon and caſe may be rightly underſtood by the court, nor through defect or want of form only, and the court, on motion made, may order amendments.

And be it further enacted, That execution ſhall not iſſue in any caſe, until the expiration of twenty four hours after the entering up of judgment.

An Act directing the proceedings in Actions of Debt on Judgments.

Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That upon the judgment for debt, damage or coſts, which has been or which ſhall be rendered and recorded by any Court of Record, or any Juſtice of the Peace of this Commonwealth, and remaining in force and unſatisfied, an action of debt may be brought in the ſame court, or before the ſame Juſtice where ſuch record remains; or in any Court of Record, or before any Juſtice of the Peace holding pleas for the county in which either of the parties to ſuch judgment, their executors or adminiſtrators, ſhall dwell and reſide at the time of bringing ſuch action, and proper to try the ſame. And ſuch judgment may be certified by a true copy of the record thereof, atteſted by the clerk for the time being of the court, or by the Juſtice of the Peace, as the caſe may be, where or with whom ſuch record remains.

And be it further enacted, That upon the judgment for debt, damages or coſts, which has been or which ſhall be rendered and recorded by a Court of Record in any other of the United States, or by a Court of Record of the United States, and remaining in force and unſatisfied, an action of debt may be brought in any Court of Record of this Commonwealth, holden for the county, in which either of the parties to ſuch judgment, their executors, or adminiſtrators, ſhall dwell and reſide, or in which any valuable goods, credits or eſtate of any debtor in ſuch judgment ſhall be found

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found, at the the time of bringing such action : *Provided*, that such judgment shall be certified in the form and to the effect which is or shall be prescribed by any general law of the Congress of the United States.

And be it further enacted, That in the action of debt which shall be duly maintained upon any judgment as aforesaid, lawful interest shall be allowed ; as well upon the costs, as upon the debt or damages, or the balance thereof, due and recoverable, and judgment in such action shall be rendered accordingly ; any law or custom to the contrary hereof notwithstanding.

And be it further enacted, That this act shall take effect and be in force on and after the first day of *July* next, and that all acts passed before the first day of *November*, one thousand seven hundred and eighty, the subject matter whereof is included in this act, as also the clause of an act authorising an action of debt on the judgment of a Justice of the Peace in another state, be and the same shall be repealed on and after the said first day of *July* next, as to all actions to be brought after that day.

[This act passed *February* 27, 1796.]

An Act in addition to an act entitled "An Act for rendering processes in law less expensive."

Whereas in the said act it is provided, That on the removal or death of any Justice of the Peace, the records of the said Justice, which by that act he is obliged to keep, shall be lodged in the office of the clerk of the Court of Common Pleas for the same county, together with all the papers on his files relating to any action brought before him under that act :

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That from and after the passing of this act, it shall be the duty of the clerks of the several Courts of Common Pleas in their respective counties, on the death of any Justice of the Peace, where there shall be any executor or administrator appointed on his estate, to call on such executor or administrator, and receive from him all the records of such Justice, with all the papers relating to any action brought before him under that act ; and where there shall have been no executor or administrator appointed on the estate of such Justice, within three months after his decease ; and also in case of the removal of any Justice of the Peace from this Commonwealth, or ceasing to execute his said office, the said clerks of said courts, in their respective counties, shall call on any person or persons who may have said records and papers in his or their possession, and the clerks shall be the proper persons to keep, and, under the direction of the court, to certify they same.

[This act passed *February* 27, 1796.]

An

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An Act for removing doubts which have arisen in the construction of an act passed in the year of our Lord one thousand seven hundred and eighty-four, entitled "An Act describing the Power of Justices of the Peace."

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That every Justice of the Peace, in his county, shall have full power and authority to hear and determine all debts, trespasses *quare clausum fregit*, and other trespasses and matters not exceeding the value of *thirteen dollars, thirty-three cents* and a *third*, excepting actions wherein the title to real estate is in question, and shall be specially pleaded by the defendant.

SECT. 2. *Be it further enacted*, That the amount of the sum or sums specified, expressed, or supposed to be demanded by the plaintiff in his declaration, shall not be considered as any objection against the Justice's jurisdiction, provided the *ad damnum*, or *damage*, is not laid or stated to exceed *thirteen dollars, thirty-three cents* and a *third*.

[This act passed *June* 22, 1797.]

For what relates to BAIL and to RECOGNIZANCES of DEBTS, and REFERENCES, see under those articles respectively.

FORMS.

I. *Of* DECLARATIONS.

NOTE. The plaintiff's declaration ought to be plain and certain, as it compels the defendant to make answer to it. It must set forth the plaintiff's and defendant's names, places of abode and additions; the cause or matter of the complaint; in what manner the action did arise; the time and place the injury was done, and the damage sustained thereby.

The following are such as most commonly come under the cognizance of Justices of the Peace.

I.

In Debt, upon a Bond.

D——ff. to the Sheriff, &c. Attach the goods or estate of C. D. &c to answer unto A. B. &c. in a plea of debt, for that the said C. D on the —— day of ———, at said ———, by his certain writing obligatory, commonly called a bond, sealed with the seal of the said C. and ready here in court to be produced, acknowledged himself to be held and firmly bound unto the said A. in the sum of ———, to be paid to the said A. &c. [*as in the bond*] yet the said C. although thereunto often required, hath not paid

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paid to the ſaid A. the ſum of ——— nor any part thereof, but hitherto hath refuſed and ſtill doth refuſe to pay it to him. To the damage, &c.

II.

Upon a Statute qui tam.

D———ſſ. To the Sheriff, &c. Attach the goods or eſtate of C. D. &c. to anſwer unto A. B. &c. who ſues as well for us (*or* for the poor of, &c. *or* as the caſe may be) as for himſelf, in a plea of debt, for that by a certain ſtatute or law of the Commonwealth, entitled, &c. [*here recite that part of the ſtatute which gives the action*] and the ſaid C. on the —— day of ———, &c. at ———, &c. did ſuch a thing, &c. contrary to the form and effect of the ſtatute before mentioned, whereby an action hath accrued to the ſaid A. who ſues as aforeſaid, to demand and have of the ſaid C. the aforeſaid ſum of ——— ; yet the ſaid C. though often thereunto required, hath not paid the ſaid ——— to us (*or* the poor, &c.) or to the ſaid A. who ſues as well for ——— as for himſelf, but hath hitherto refuſed and ſtill doth neglect and refuſe to pay it to him. To the damage, &c.

III.

Upon a Judgment.

D——— ſſ. To the Sheriff, &c. Attach the goods of C. D. &c. to anſwer to A. B. in a plea of debt, for that the ſaid A. by the conſideration of our Juſtices of our —— court ———, which was begun and holden at —— in our ſaid county of D. recovered judgment againſt the ſaid C. for the ſum of —— debt or damage, and —— coſts of ſuit, as by the record of our ſaid court may more fully appear, which judgment is yet in full force, not reverſed, annulled or ſatisfied, and the ſaid A. hath not obtained execution upon the ſaid judgment, whereby an action hath accrued to the ſaid A. to demand and have of the ſaid C. the aforeſaid ſum of —— ; yet the ſaid C. though often thereunto required, the ſaid ſum of ———, or any part thereof, to the ſaid A. hath not paid, but hath hitherto refuſed and ſtill doth refuſe to pay it to him.

IV.

In CASE—*For Goods ſold and delivered.*

D———ſſ. To the Sheriff, &c. Attach the goods, &c. of C. D. &c. to anſwer unto A. B. &c. In a plea of the caſe.

Indebitatus aſſumpſit.

For that the ſaid C. on the —— day of ———, being indebted to the ſaid A. in the ſum of ———, for divers goods, wares and merchandizes, by him the ſaid A. before that time ſold and delivered to the ſaid C. at his requeſt, according to the account hereunto

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to annexed, (*or* for, &c.) then and there promiſed the ſaid A. to pay him that ſum on demand; yet the ſaid C. &c.

Quantum valebant.

And alſo, for that the ſaid C. *afterwards viz.* on the *ſame* —— day of ——, at ——, in conſideration that the ſaid A. had before that time, at the ſpecial inſtance and requeſt of the ſaid C. ſold and delivered to him the ſaid C. divers goods, wares and merchandizes, according to (and other than, though ſimilar to, thoſe mentioned) in the account hereunto annexed, promiſed the ſaid A. to pay him upon demand as much money as the ſaid goods, wares and merchandizes *(laſt mentioned)* ſo ſold and delivered, were, at the time of ſale and delivery thereof, reaſonably worth. And the ſaid A in fact ſaith that the goods, wares and merchandizes *(laſt mentioned)* ſo ſold and delivered to the ſaid C. by him the ſaid A. as above, were at the time of ſale and delivery thereof reaſonably worth the (*further*) ſum of ——, of which the ſaid C. then and there, viz. at the day and at the place laſt mentioned, had notice; yet, &c.

In ſimul computaſſat.

For that the ſaid A. and C. *afterwards*, *viz.* on the —— day of ——, at ——, accounted together concerning divers ſums of money to the ſaid A. from the ſaid C. before that time due and owing, and then being in arrear and unpaid. And upon ſuch account the ſaid C. was then and there found in arrear to the ſaid A. in *(one other or)* the ſum of ——, and being ſo found in arrear, the ſaid C. in conſideration thereof, afterwards, viz. on the ſame day and at the place laſt mentioned, undertook and faithfully promiſed the ſaid A. to pay him the ſaid ſum of —— on demand; yet, &c.

V.

For Money had and received, laid out and expended, and lent.

D——ſſ. To the Sheriff, &c. Attach the goods, &c. of D. E. of, &c. to anſwer to A. B &c. in a plea of the caſe, for that the ſaid D. E. on the —— day of ——, at ——, being indebted to the ſaid A. in the ſum of —— for the like ſum of money before that time

Had and received. { By him the ſaid D. had and received to the uſe of the ſaid A.

Laid out and expended. { Laid out and expended by the ſaid A. at the ſpecial inſtance and requeſt of the ſaid D. to and for the uſe of him the ſaid D.

Lent. { By the ſaid A. lent to the ſaid D. at his ſpecial inſtance and requeſt.

Promiſed the ſaid A. in conſideration thereof to pay him the ſaid ſum of —— on demand; yet, &c.

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VI.

Quantum meruit, for 1ſt. *Work done.* 2d *For meat, drink, &c. and* 3d *For cure of a diſeaſe, &c.*

D———ſſ. To the Sheriff, &c. Attach the goods, &c. of D. E. &c. to anſwer to A. B. &c. in a plea of the caſe, for that the ſaid D. on the —— day of ———, at ——, in conſideration that the ſaid A. had before that time at the ſpecial inſtance and requeſt of the ſaid D.

1. *Work, &c.* { Done and performed for the ſaid D. certain (*other*) work and labour in his the ſaid A's art and trade of a ———.

2. *Meat, &c.* { Found and provided for the ſaid D. (*other*) ſufficient meat, drink, waſhing and lodging, for the ſpace of —— then paſt.

3. *Cure, &c.* { Healed and cured T. D. a daughter of the ſaid D. of divers (*other*) infirmities which ſhe the ſaid T. D. laboured under.

Undertook and faithfully promiſed to pay to the ſaid A. ſo much money, as he reaſonably deſerved to have of the ſaid D. for

1. *Work, &c.* { Such work and labour (*laſt mentioned*) done and performed for the ſaid D. by the ſaid A. as aforeſaid.

2. *Meat, &c.* { The ſaid (*other*) meat, drink, waſhing and lodging, found and provided for the ſaid D. by the ſaid A. as aforeſaid.

3. *Cure, &c.* { Such cure, &c.

And the ſaid A. in fact ſaith that he reaſonably deſerved to have from the ſaid D. for the ſaid (*laſt mentioned*)

1. *Work.* { Work and labour done and performed as aforeſaid.

2. *Meat.* { Meat, drink, waſhing and lodging, found and provided as aforeſaid.

3. *Cure.* { Cure, &c.

The *(further)* ſum of ——, of which the ſaid ——— then and there, viz. on the day and at the place laſt mentioned had notice; yet, &c.

Note. In the foregoing forms of declarations in actions on the caſe, the words printed in *Italicks* are to be uſed only when ſuch declarations (or rather counts) follow an *Indebitatus aſſumpſit.* When they are uſed ſingly, thoſe words are to be left out.

VII.

Upon a Promiſſory Note.

D———ſſ. To the Sheriff, &c. Attach the goods, &c. of D. E. &c. to anſwer to A. B. &c. in a plea of the caſe, for, &c. for that

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that the ſaid D. at ſaid ———, on the —— day of ——, by his certain note in writing, called a promiſſory note, ſubcribed with his hand of that date, for value received, promiſed the ſaid B. to pay him or his order the ſum of —— on demand (*or* on or before the —— day of ——, *or as the caſe may be.*) Yet the ſaid D although thereto requeſted, (*and although the ſaid time of payment is long ſince paſt*) hath not paid the ſame, but hath refuſed and ſtill doth neglect and refuſe ſo to do. To the damage, &c.

VIII.

Upon a Note endorſed againſt the Promiſſor.

D———ſſ. To the Sheriff, &c. Attach C D. &c. to anſwer unto A B. &c. in a plea of the caſe, for that the ſaid C. D. at —— on the —— day of ———, by his certain note in writing, called a promiſſory note, by him ſubſcribed, bearing date the day and year aboveſaid, promiſed one E F. to pay to him or his order the ſum of —— on demand, being for value received, and the ſaid E. afterwards, viz. on the ſame day and at the place laſt mentioned, by his endorſement in writing made on the ſaid note and ſubſcribed with his hand, aſſigned the ſaid note to the ſaid A. and by the ſame endorſement ordered the contents of ſaid note, then wholly due and unpaid, to be paid to the ſaid A. according to the tenor and effect of ſaid note, of which the ſaid C. afterwards, viz. on the day and year and at the place laſt mentioned, had notice, and thereupon became chargeable and liable to pay to the ſaid A. the ſum mentioned in ſaid note, according to the tenor and effect of the ſame; and being ſo chargeable, in conſideration thereof, then and there promiſed ſo to do; yet, &c.

IX.

Upon a Promiſſory Note againſt the Indorſer.

D———ſſ. To the Sheriff, &c. Attach the goods, &c. of C. D. to anſwer to A. B. in a plea of the caſe, for that one E. F. of, &c. at on, &c. by his certain note in writing, called a promiſſory note, ſubſcribed with his hand, and bearing date the day and year laſt abovementioned, promiſed to pay the ſaid C. D. or order, the ſum of upon, &c. for value in the ſaid note mentioned to be received; and the ſaid C. afterwards, viz. on the ſame day at aforeſaid, by his endorſement on the ſaid note, by him ſubſcribed, ordered and appointed the contents of ſaid note then being unpaid, to be paid to the ſaid A. or his order, for value in the ſaid endorſement mentioned to be received, whereof the ſaid A. on the ſame day laſt mentioned, at aforeſaid, gave notice to the ſaid C. and then and there required him the ſaid C. to pay to him the ſaid A. the aforeſaid ſum of contained in ſaid note, according to the tenor of the ſame and endorſement thereon; but the ſaid A. in fact ſaith, that the ſaid E. although as above required thereto, hath not paid the ſaid ſum to the ſaid A.

but

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but hath refuſed and neglected to pay the ſame to him, and therefore the ſaid C. afterwards, viz. on the day and year laſt mentioned, at aforeſaid, had notice, by reaſon of which premiſes the ſaid C. became chargeable and liable to pay ſaid ſum of in ſaid note contained; and being ſo liable, he the ſaid C. afterwards, viz. on the ſame day and year laſt mentioned, at aforeſaid, in conſideration thereof, upon himſelf aſſumed, and then and there faithfully promiſed to pay the ſame to the ſaid A. on demand; yet, &c.

X.

For Deceit on a Warranty of Goods.

D———ff. To the Sheriff, &c. Attach the goods, &c. of C. D. to anſwer to E. F. &c. in a plea of the caſe, for that the ſaid C. at ſaid on, &c. in conſideration of lawful money, by the ſaid E. to him the ſaid C. then and there in hand paid, did bargain and ſell unto the ſaid E. one hogſhead of white Liſbon wine, and upon making the ſaid bargain and ſale, he the ſaid C. did then and there warrant the ſame wine to be neat and perfect wine, and in good condition. But he the ſaid E. in fact ſaith that the wine aforeſaid, at the time of the bargain and ſale aforeſaid, was corrupted and adulterated wine, and if drank would be hurtful to man's body, whereby the ſaid E. upon the bargain and ſale, and warranty aforeſaid, was very much deceived and defrauded; to the damage, &c.

XI.

Upon the Bill (or Order) againſt the Drawer.

D———ff. To the Sheriff, &c. Attach the goods and eſtate of C. D. &c. to anſwer to A B. in a plea of the caſe, for that the ſaid C. on the day of at drew a certain bill in writing, ſubſcribed with his hand, and directed the ſame to one E. F. of , whereby he requeſted the ſaid E. F. to pay to the ſaid A. or his order, on ſight thereof (*or* in days, &c.) the ſum of , being for value received, which ſaid bill ſo made and ſubſcribed, the ſaid A. afterwards, viz. on the day of , at aforeſaid, preſented to the ſaid E. F. and then and there required him the ſaid E. to accept the ſame, and to pay to the ſaid A. the ſaid ſum of in ſaid bill mentioned, but he the ſaid E. then and there refuſed to accept the ſame, and pay the ſaid ſum therein contained, of which the ſaid C. afterwards, that is to ſay, on the ſame day and year laſt mentioned, at aforeſaid, had notice, by reaſon whereof the ſaid C. became chargeable, and now is liable and chargeable to pay to the ſaid A. the ſaid ſum of in ſaid bill contained; and being ſo liable, he the ſaid C. afterwards, viz. on the day and year aforeſaid, at aforeſaid, promiſed the ſaid A. to pay him the ſaid ſum of on demand. Yet the ſaid C. although thereto requeſted, hath not paid the ſaid ſum to

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to the ſaid A. but hath hitherto refuſed and ſtill doth refuſe ſo to do; to the damage, &c.

XII.

On a Bill (or Order) accepted.

D——ff. To the Sheriff, &c. Attach the goods, &c. of C. D. of, &c. to anſwer to A. B. of, &c. in a plea of the caſe, for that one E. F. at on the day of, drew a certain bill in writing, ſubſcribed with his hand, and directed the ſame to the ſaid C. whereby he required the ſaid C. to pay to the ſaid A. on ſight thereof, (*or* within days, &c.) for value received, the ſum of, and to charge him the ſaid E. therewith, and the ſaid A. in fact ſaith that afterwards, viz. on the day of at he the ſaid C. accepted the ſaid bill, and thereby became chargeable and now is chargeable and liable to pay the ſum in ſaid bill mentioned, viz. the ſum of, according to the tenor thereof, to the ſaid A. and in conſideration thereof, then and there promiſed ſo to do; yet the ſaid C. although thereto requeſted, hath not paid the ſame to the ſaid A. but hath hitherto refuſed and ſtill doth neglect and refuſe ſo to do; to the damage, &c.

XIII.

For a Nuiſance.

D——ff. To the Sheriff, &c. Attach the goods, &c. of E. D. to anſwer A. B. in a plea of the caſe, for that whereas the ſaid A. on the day of, &c. and always from thence hitherto was and hath been and ſtill is poſſeſſed of a meſſuage or tenement ſituate, lying and being in the town of, in the county aforeſaid, for a certain term of years then and yet to come, and whereas the ſaid A. and all thoſe whoſe eſtate he now hath of and in the meſſuage with the appurtenances aforeſaid, have, and from the time whereof the memory of man is not to the contrary, were accuſtomed to have, and of right ought to have, for themſelves and their tenants, as to the ſaid meſſuage belonging and appertaining, in the garden of ſaid A. in and out of the river running down and deſcending between the meadow of the ſaid E. called, &c. and the ſaid garden of the aforeſaid A. at all times of the year at their pleaſure, clean, pure and wholeſome water, to dreſs all manner of victuals, for the neceſſary ſubſiſtence of men inhabiting and reſiding in the tenement aforeſaid with the appurtenances, or any part thereof: Nevertheleſs, the ſaid E. not ignorant of the premiſes, but contriving and maliciouſly intending the ſaid A. in this behalf unjuſtly to grieve, the day, &c. in the year, &c. at, &c. aforeſaid, certain tan-pits in the aforeſaid meadow, called, &c. then and there made and digged, and continued, and the mud, filth and other unclean things into the ſaid meadow of the ſaid E. near to the

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the river, and near to the ſaid garden of the ſaid A. then and there out of the tan-pits aforeſaid did caſt and evacuate; and from thence the ſaid mud, filth and uncleaneſs, into the ſaid river of the aforeſaid meadow of him the ſaid E. near to the garden of the aforeſaid A. out of the ſame tan-pits then and there being evacuated and caſt into the water of the ſaid A then and there did run down and deſcend; whereby the ſaid water of him the ſaid A. out of the river near the garden of the ſaid A. for the neceſſary uſe of him the ſaid A. and his whole family taken and had, became putrid, corrupt, and to human bodies altogether unwholeſome; to the damage, &c.

XIV.

In Trover.

C—— ſſ. To the Sheriff, &c. Attach the goods, &c. of D. E. to anſwer to F. G in a plea of treſpaſs on the caſe, for that whereas the ſaid F. at in the county aforeſaid, on the day of was poſſeſſed of one large ſilver tankard, marked with the letters, &c. of the price of ſix pounds, as of his own proper goods; and being ſo thereof poſſeſſed, the ſaid A. afterwards, that is to ſay, the day, &c in the year aforeſaid, at L aforeſaid, in the county aforeſaid, the ſaid tankard out of his hands and poſſeſſion did caſually loſe, and was deprived of the ſame, which ſaid tankard, afterwards, that is to ſay, the ſaid day, &c. in the, &c. at L. aforeſaid, in the county aforeſaid, by finding came to the hands and poſſeſſion of the ſaid D Nevertheleſs, the ſaid D knowing the ſaid tankard to be the proper tankard of the ſaid F. and to him the ſaid F. of right ought to belong and appertain, contriving and intending craftily and ſubtilly to deceive and defraud the ſaid F. in this particular, the tankard aforeſaid to the ſame F. although thereunto often required, hath not delivered, but the ſaid tankard afterwards, that is to ſay, the day of, &c. in the year aforeſaid, at L. aforeſaid, in the county aforeſaid, the ſaid D. to his own proper uſe, did then and there diſpoſe of and convert.

XV.

In Action of Slander.

C———ſſ. To the Sheriff, &c. Attach the goods, &c. of C. D. to anſwer to A. B. in a plea of treſpaſs on the caſe, for that whereas the ſaid A. is our good, faithful and honeſt citizen, and hath hitherto from the time of his birth, behaved himſelf as ſuch; and for the whole time aforeſaid was reckoned, eſteemed and reputed of good name, fame and converſation, as well among his neighbours as all our other faithful citizens to whom he was known, always leading an honeſt, ſincere and upright life, and obſerving inviolably our laws, never committed any fraud, theft or robbery, or any other ſuch ſort of crimes; but for the whole time of his life,

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life, he hath kept and preſerved himſelf clear, free or unſuſpected of doing or commiting any ſuch facts, and from all offences; and by that means he had obtained great credit and the good opinion and favour of divers of our citizens, whereby the ſaid A. honeſtly gained and acquired great gains, and profits towards getting of his living, and the ſupport of his family. Yet the aforeſaid C. not ignorant of the premiſes, of his malice, contriving to impair and injure the name, fame, eſtate and reputation of the ſaid A. and to bring and draw him the ſaid A. into miſtruſt of our citizens, and into the ſcandal and danger of loſing his life, by our laws againſt ſuch ſort of malefactors, and that the ſame ſubjects ſhould deſiſt from trading and bargaining, or in any manner to deal with the ſaid A. in his trade aforeſaid, and that they ſhould eſteem him the ſaid A. a rogue, robber, and thief, on the day, &c. in the year, &c. at, &c. aforeſaid, in the county aforeſaid, falſely, maliciouſly and openly ſpoke, uttered publiſhed, and with a loud voice pronounced theſe falſe, feigned, and ſcandalous *Engliſh* words, following, of the ſaid A. in the preſence and hearing of very many of our citizens, being then and there preſent, viz. *you* (meaning the aforeſaid A.) *are a rogue and a thief, and I* (meaning the ſaid C.) *will prove you* (again meaning the ſaid A.) *a rogue and a thief.* By pretence of ſpeaking, uttering and publiſhing of which ſaid falſe, feigned and ſcandalous words, the ſaid A. is not only greatly ſcandalized and damaged in his good name, fame, credit and eſteem aforeſaid, among many of our faithful citizens by whom he was reſpected and eſteemed, but alſo he is much injured in exerciſing his trade with divers of our citizens with whom the ſaid A. uſed to deal in buying, ſelling and lawfully bargaining; and all the neighbours of the aforeſaid A. and other ſubjects of this ſtate, who uſed to trade and deal with the ſaid A. from the occaſion aforeſaid, have withdrawn themſelves from the company of him the ſaid A. and yet withdraw themſelves, and entirely refuſe to trade or deal with ſaid A.; to the damage, &c.

Another. (For ſaying a Woman keeps a Bawdy Houſe.)

C———ff. To the Sheriff, &c. Attach the goods, &c. of E. F. to anſwer to G. H. &c. in a plea of treſpaſs on the caſe, for that whereas the ſaid G. now is one of our good, faithful, pious and honeſt citizens, and hath always behaved, carried and governed herſelf as a good, faithful, pious and honeſt citizen, without any kind of fornication or adultery, or other hurtful crime or infamy, or procuring for another, and free from keeping a bawdy houſe and all ſuſpicion thereof, &c. Yet the ſaid E. not ignorant of the premiſes, but envying the happy ſtate and condition of the ſaid G. and contriving, and maliciouſly intending to take away and deprive her of her good name, fame, credit and eſteem aforeſaid, and to bring upon her publick infamy and reproach, and utterly to overthrow the ſtate of her the ſaid G. and cauſe her to undergo the

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the pains and punishment against persons that keep bawdy houses, by our laws provided, on the day of in the year , in a certain discourse that the said C. then and there had with the said E. in the presence and hearing of divers of our citizens, did falsely and maliciously speak, utter, and with a loud voice publish, these false and scandalous words, following, (that is to say) *you mistress H.* (meaning the aforesaid G. H.) *keep a bawdy house, and your daughters are whores;* when in fact the aforesaid G. is not, nor was guilty of the same, or any part thereof. By pretence of the speaking and publishing of which said words, the said G. is very much hurt and injured in her good name, fame, credit and esteem aforesaid, among many of our citizens, to whom the innocency of the said G. in this particular is unknown; and the said citizens upon that account have kept and withdrawn themselves from the society of her the said G. as they before used to do, and thereby she hath totally lost, and is deprived of divers gains and profits, which she could honestly get, in lawfully using and exercising her business; to the damage of the said G. &c.

XVI.

In Trespass. (Assault and Battery.)

D——ff. To the Sheriff, &c. Attach the goods, &c. of C. D &c. to answer to G. B. in a plea of trespass, for that he the said C. on the day of , with force and arms, viz. with swords, staves, fists and knives, in and upon the said G. at in the county aforesaid, made an assault, and him the said G. then and there did beat, wound and evilly treat, so that his life was greatly despaired of, and other injuries then and there did to him the said G. against our peace, and To the damage, &c.

XVII.

For entering a man's House, breaking the Doors, Windows, &c.

D——ff. To the Sheriff, &c. Attach the goods, &c. of D. E. &c. to answer unto E. F. &c in a plea of trespass, for that the said D. on the day of, &c. with force and arms the house of the said E. in , in the county aforesaid, broke and entered, and the door of him the said E. to the value of then and there found, he broke, cut, tore down and despoiled, and also that the said D. on the same day and year at aforesaid, in the county aforesaid, the wainscot, glass windows and walls of the house aforesaid, to the value of in like manner then and there found, he broke, tore and spoiled, and other wrongs to the said E. then and there did against our peace, and to the damage, &c.

For

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XVIII.

For ſeveral Treſpaſſes with a Continuando.

D —— ſſ. To the Sheriff, &c. Attach the goods, &c. of C. D. to anſwer to G. B. in a plea of treſpaſs, for that he the ſaid C. on the day of , with force and arms, that is to ſay, with clubs, ſtaves, &c. the cloſe of the ſaid G. called, &c. at in the county of D. aforeſaid, broke in and entered, and the graſs of him the ſaid G. to the value of *ſhillings*, then and there growing, with his feet in walking he trod down and conſumed; and alſo other graſs or corn of the ſaid G. to the value of *ſhillings*, in like manner there growing, with certain beaſts, that is to ſay, with horſes, oxen, cows, and ſheep, ate up, trod down and conſumed; and alſo the ground of the ſaid G. called, &c. did dig, and his earth, to wit, fifty cart loads of earth, to the value, &c. there caſt up, took and carried away; whereby he the ſaid G. loſt the whole profit of his ground aforeſaid for a long time, that is to ſay, for the ſpace of, &c. And the treſpaſs above mentioned, as to the treading down and conſuming the graſs aforeſaid, with the aforeſaid beaſts, from the aforeſaid day, &c. in the year aboveſaid until the day, &c. then next following, at divers days and times continued; and other wrongs then and there did to the ſaid G. againſt the peace, &c. And to the damage of the ſaid G. &c.

II. PLEAS.

I.

In Debt.

And the ſaid C. comes and defends, &c. and ſaith that he doth not owe to the ſaid A. the ſaid ſum of or any part thereof, in manner and form as the ſaid A. above complains againſt him, and thereof puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

II.

In Caſe—That the Defendant never promiſed.

And the ſaid C. comes and defends, &c. and ſaith that he never promiſed in manner and form as the ſaid A. above complains againſt him, and therefore puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

Not Guilty.

And the ſaid C. comes and defends, &c. and ſaith that he is not guilty in manner and form as the ſaid A. above complains againſt him, and therefore puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

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III.

In Trover.

And the ſaid C. comes and defends, &c. and ſaith that he is not guilty in manner and form as the ſaid A. hath by his declaration aforeſaid alleged, and thereof puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

IV.

In Slander.

And the ſaid C. comes and defends the force and injury when, &c. and ſaith that he is not guilty of the premiſes above charged upon him, in manner and form as the ſaid A. in his declaration above complains againſt him, and of this he puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

V.

In Treſpaſs.

And the ſaid C. comes and defends the force and injury when, &c. and ſaith that he is not guilty of the treſpaſs (*or* of the aſſault and battery) aforeſaid, as the ſaid A. hath in his declaration above complained againſt him, and of this he puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

VI.

In Replevin.

And the ſaid C. comes and defends, &c. and ſaith that he did not take the ſaid cattle (*or* goods, &c.) as the ſaid A. hath above againſt him complained, and thereof puts himſelf on trial.

General iſſue. And the plaintiff likewiſe.

Plea in Abatement—Of Miſnomer.

And the ſaid C. D. comes and defends the force and injury when, &c. and prays judgment of the writ aforeſaid, becauſe he ſaith that he is called and known by the name of , &c. and by the ſame name and ſirname, from the time of his nativity, hitherto hath always been called and known, and not by the name of C. D. as in the ſaid writ is contained, and this he is ready to verify. Wherefore he prays judgment of the writ aforeſaid, and that the ſame may be abated.

Replication.

And the ſaid A. ſaith, That for any thing by him the ſaid C. above in pleading alleged, his writ aforeſaid ought not to be abated becauſe he ſaith that the ſaid C. is named and called, and on the day of the date and purchaſe of the ſaid writ, was named and called as well by the name of C. D. as by the name of , &c. and this he prays may be inquired into.

As

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As by the act describing the power of Justices in civil actions, as inserted in page 29, the defendant in all actions triable before a Justice of the Peace (except actions of trespass wherein he means to plead title) is entitled to all evidence under the general issue, which by law he might avail himself of under any special plea in excuse or justification, I have inserted no forms of such special pleas. In this case, however, it is proper that he should add to his plea, after the words "*comes and defends, &c.*" as follows, viz. "and reserving liberty to give any special matter in evidence," saith, &c.

For other Forms of Declarations and Pleas, see my American Clerk's Magazine,* lately published.

III. COMPLAINT.

Complaint of a Defendant, when a Plaintiff neglects to enter his Action.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

Complains C. D. of, &c. That his goods have been attached, and he was summoned to be before you this day at o'clock in the noon, at your dwelling house in , to answer unto E. B. of, &c. in a plea of , but the said E. B. hath failed to appear and enter his said action. Your complainant therefore prays that he may be allowed his costs against the said E. B. as below.

Dated at , at o'clock in the noon.

	C. D.	
Costs, viz.	*D.*	*C.*
Complaint - - - - - -		
Entry, &c. - - - - - -		
One day's attendance - - - -	0	33
Travel —— miles (at 33 cents for every 10 miles)		
Witnesses, viz. - - - - -		
E. F. 1 day - - - - - -	0	33
Travel —— miles, at 4 cents a mile - -		
G. H. 1 day - - - - - -	0	33
Travel, &c. - - - - -		

* This book may be had at the Bookstore of Thomas and Andrews.

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IV. JUDGMENTS.

I.

On Iſſue joined, in favour of the Plaintiff.

At a Juſtice's Court holden before me S. T. Eſq. one of the Juſtices of the Peace for the county of ——, at my dwelling houſe in —— in ſaid county, on — the —— day of ——, at — o'clock in the ——— noon, E. B. of, &c plaintiff, *vs.* C. D. of, &c. defendant, in a plea of ——, for that, &c. [*here inſert the declaration*] to the damage of the ſaid E. B as he ſaith, the ſum of ——.

The parties appear, the plaintiff enters his action, and the defendant comes and defends, &c. and ſaith,

In *Debt.*	That he doth not owe, &c.	*Here the defendant's plea is to be inſerted as it is made. The plaintiff then joins iſſue by ſaying,* and the plaintiff likewiſe.
In *Caſe.*	That he never promiſed, *or* that he is not guilty, &c. *(as the caſe may be.)*	
In *Trover.* In *Slander.* In *Treſpaſs*	That he is not guilty.	
In *Replevin.*	That he did not take, &c.	

Whereupon the cauſe is fully heard, and after a full hearing it appears to me that the defendant, (*in debt*, doth owe the plaintiff the ſaid ſum of ———. *Or, in caſe*, did promiſe the plaintiff ———. *Or, in trover, ſlander*, or *treſpaſs*, is guilty) as the plaintiff hath declared.

It is therefore conſidered by me the ſaid Juſtice, that the ſaid E. B. recover againſt the ſaid C. D. the ſum of debt or damage, and charges of ſuit, taxed at ———. S. T.

II.

In favour of the Defendant.

At a Juſtice's Court holden before me S. T. Eſq. one of the Juſtices of the Peace for the county of , at my dwelling houſe in in ſaid county, on the day of , at o'clock in the noon, E. B. of, &c. plaintiff, *vs.* C. D. of. &c. defendant, in a plea of , for that, &c. [*here inſert the declaration*] to the damage of the ſaid E. B. as he ſaith, the ſum of

The parties appear, the plaintiff enters his action, and the defendant comes and defends, &c. and ſaith [*here inſert the defendant's plea*] and the plaintiff likewiſe.

Whereupon the cauſe is fully heard, and after a full hearing it appears to me that the defendant (*in debt*, doth not owe the plaintiff.

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, *in caſe*, did not promiſe the plaintiff. *Or, in trover, ſlanre/paſs*, is not guilty) as the plaintiff hath declared.

It is therefore conſidered by me the ſaid Juſtice, that the ſaid C. D. recover againſt the ſaid E. B. coſts of court, taxed at

S. T.

III.

On Report of Referees.

At a Juſtice's Court, &c. *(as above.)* E. B. of, &c. plaintiff *vs.* C. D. of, &c. defendant, in a plea of , for that, &c. [*declaration*] to the damage of the ſaid E. B. as he ſaith the ſum of

This action was entered at a court holden before me at my dwelling houſe in , on the day of , when and where the parties appeared, and agreed to refer the ſame to the determination of E. F. G. H. and I. K. the report of whom, or the major part of whom, to be made to me, and judgment thereon to be final; and if either party, on due notice, did neglect to attend the referees, they were to proceed *ex parte*.

The ſaid action was then continued to this time, and now the ſaid referees report, That, &c. which report is accepted by me the ſaid Juſtice.

It is therefore conſidered by me the ſaid Juſtice. that the ſaid recover againſt the ſaid

S. T.

IV.

When an Action is continued.

At a Juſtice's Court, &c. *(as before)* E. B. of, &c. plaintiff, *vs.* C D. of, &c. defendant, in a plea of , for that, &c. [*here inſert the declaration*] to the damage of the ſaid E. B. as he ſaith, the ſum of .

This action was commenced to be heard and tried before me, on the day of laſt, at o'clock in the noon, at which time the parties appeared and the plaintiff entered the ſaid action. It was thence continued to (the day of then next following, and thence to) this time. And now the defendant comes, &c. [*Here inſert the pleas, and go on as before in page* 49 *and* 50.]

V.

If the Plaintiff, at the time to which an action is adjourned, ſhould not appear, ſay,

And now the defendant appears, and the plaintiff, although ſolemnly called to come into court, does not appear, but becomes non-ſuited. It is therefore conſidered by me the ſaid Juſtice, that he the ſaid C. D. recover againſt the ſaid E. B. coſts of court, taxed at S. T.

Judgment

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VI.

Judgment on a Complaint.

At a Juſtice's Court, &c. *(as in page 52 and 53.)* C. D. of, &c. having complained and fully ſhewn to me the ſubſcriber, one of the Juſtices of the Peace for ſaid county, That he was ſummoned to appear before me this day at o'clock in the noon, to anſwer to E B. of, &c. in a plea of ; and that the ſaid E. hath failed to enter his ſaid action, and therefore prayed that he may be allowed his coſt againſt the ſaid E.

It is therefore conſidered by me the ſaid Juſtice, that the ſaid C. D. recover againſt the ſaid E. B. coſt of court, taxed at

S. T.

VII.

On Default.

At a Juſtice's Court, &c. (*as before.*) E. B. plaintiff, and C. D. defendant, &c. in a plea of , for that, &c. [*declaration*] to the damage of the ſaid E. B. as he ſaith the ſum of . The plaintiff appears and enters his action. The defendant, although ſolemnly called to come into court, does not appear, but makes default.

It is therefore conſidered by me the ſaid Juſtice, that the ſaid E. B. recover againſt the ſaid C. D. the ſum of debt or damage, and coſts of court, taxed at S. T.

VIII.

Upon Plea of Abatement.

At a Juſtice's Court, &c. (*as in page 52 and 53.*) E. B. of, &c. plaintiff, C. D. of, &c. defendant, in a plea of, &c. [*here recite the declaration and pleas.*] Which pleas being by me the ſaid Juſtice fully heard and underſtood, I am of opinion that there is ſufficient matter couched therein to abate the ſaid writ.

It is therefore conſidered by me the ſaid Juſtice, that the writ aforeſaid be abated, and that the ſaid C. D. recover againſt the ſaid E. B. coſts of court, taxed at S. T.

IX.

Upon ſuch Plea's being overruled.

At a Juſtice's Court, &c. (*as in page 52 and 53.*) E. B. of, &c. plaintiff, C. D. of, &c. defendant, in a plea of, &c. [*here inſert the declaration and pleas.*] Which pleas are by the ſaid Juſtice overruled, and the defendant (ſaving them) for iſſue pleads that he never promiſed (*or* that he is not guilty, *as the caſe may be*) as the plaintiff declares againſt him, and thereof puts himſelf on trial, and the plaintiff likewiſe.

Whereupon, after a full hearing, it appears to me the ſaid Juſtice, that the plaintiff's declaration is well proved, and that the defendant

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fendant did promiſe (*or* is guilty) in manner and form as the plaintiff declares.

It is therefore conſidered by me the ſaid Juſtice, that the ſaid E. B. recover againſt the ſaid C. D. the ſum of £ damage, and charges of ſuit, taxed at £ S. T.

V. APPEAL.

If either Party appeal, add (before the Judgment be ſigned) as follows, viz.

From this judgment the ſaid appeals to the next Court of Common Pleas to be holden at , within and for the ſaid county of , and enters into recognizance, as the law directs, to pay all intervening damages and coſts, and to proſecute his appeal with effect.

S. T.

Recognizance on Appeal.

D———ff. Memorandum.

That on the day of , *Anno Domini, one thouſand eight hundred and* , perſonally appeared before me, S. T. Eſq. one of the Juſtices of the Peace for the ſaid county of , C. D. of , E. F. of and G. H. of , and acknowledged themſelves to be ſeverally indebted to E. B. of , in the reſpective ſums following, viz. the ſaid C. D. as principal in the ſum of *pounds*, and the ſaid E. F. and G. H. as ſureties, in the ſum of *pounds* each, to be levied on their goods or chattels, lands or tenements, and in want thereof upon their bodies, to the uſe of the ſaid E. B. if default be made in the performance of the condition here underwritten.

The condition of the above written recognizance is ſuch, That if ſhall, at the Court of Common Pleas for the county of , which is to be holden at in ſaid county on the Tueſday of , proſecute with effect, an appeal by him made, from a judgment obtained againſt him by the ſaid E. B. at a Juſtice's Court, which was holden before me the ſaid Juſtice, at my dwelling houſe in , on the day and year aforeſaid,

Then the above written recognizance to be void and of none effect; otherwiſe, to abide in full force and virtue.

S. T.

COLLECTORS.

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COLLECTORS.

IF any of the collectors of the ſtate, county, town, diſtrict, precinct or pariſh rates and taxes, when in the execution of their office, ſhall be hindered or impeded in collecting the rates and taxes commited to them, it ſhall be lawful for ſuch collectors to require ſome meet perſon or perſons to aid and aſſiſt them therein; and that all perſons ſo required who ſhall refuſe their aid and aſſiſtance, ſhall ſeverally pay a fine to the poor of the town, diſtrict or plantation, where the offence may ariſe, not exceeding *forty ſhillings*, at the diſcretion of the Juſtice before whom the conviction may be had, by complaint or information in writing, according to the circumſtances of the offence: *Provided*, That it appears to the Juſtice that the aid ſo demanded, as aforeſaid, was neceſſary; and on default of payment of the fine impoſed, the Juſtice may order the offender to be committed to the common gaol of the county for the ſpace of forty-eight hours.
[See the 19th Section of "An Act for the choice and appointment of Collectors, &c. paſſed March 16, 1786."]

FORMS.

I.

Complaint of a Collector againſt a Perſon who refuſes him his Aid and Aſſiſtance.

To S. T. Eſq. one of the Juſtices of the Peace, within and for the county of D.

Complains upon oath, G. W. a collector of, &c. and a collector of taxes for legally choſen and ſworn, That having had a tax bill committed to him by the aſſeſſors of ſaid , dated , whereby he was required to collect the ſum of from the polls and eſtates of the inhabitants of ſaid , whereof C. D. was one who was therein aſſeſſed the ſum of , and being in the execution of his office, he was on the day of at hindered and impeded in collecting the ſaid tax of from the ſaid C. D. and thereupon required E. F. &c. a meet perſon for the ſervice, to aid and aſſiſt him therein; but the ſaid E. F. then and there refuſed ſo to do , although the aid ſo demanded of him was neceſſary; which refuſal is contrary to law, and againſt the peace of the Commonwealth. He therefore prays that the ſaid E. F. may be apprehended and fined for ſaid offence.

Dated, &c. G. W.

D———ſſ. 18 The abovenamed G. W. made oath to the truth of the above complaint, before S. T. Juſtice of the Peace.

Application

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II.

Application of a Collector for a Warrant to diſtrain for Taxes on Improved Lands, the Owner whereof does not reſide in the Town or Plantation where ſaid Lands lie.

To S. T. Eſq. one of the Juſtices of the Peace for the county of D.

G. W. collector of taxes for the in the town of in ſaid county, legally choſen and ſworn, ſheweth that [*here mention the lot or parcel of improved lands taxed*] ſituated in , and belonging to A. B. of in ſaid county, is taxed in a liſt of aſſeſſment dated , and committed to him by the aſſeſſors of ſaid to collect, the ſum of , and that there is no ſtock, corn, or hay can be found upon the ſaid (lands or lot) whereof he may make diſtreſs to ſatisfy ſaid ſum. He therefore requeſts that you would grant a warrant unto the conſtable of the ſaid town of , to diſtrain ſaid A. B. by his goods and chattels, the ſaid ſum of , with the charges of making ſuch diſtreſs, agreeably to a law of the Commonwealth in ſuch caſes made and provided.

Dated, &c. G. W.

III.

Warrant thereon.

D——ſſ.

To A. B. Conſtable of the town of in ſaid county, Greeting.

(L.S.) Whereas G. W. collector of, &c. hath repreſented to me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. That [*Here mention the the land as deſcribed in the complaint*] ſituated in ſaid , and belonging to A. B. of, &c. is taxed in a liſt of aſſeſſments, dated , and committed to him by the aſſeſſors of ſaid to collect, the ſum of , and that no ſtock, corn, or hay can be found upon the ſaid lands, whereof he may make diſtreſs to ſatisfy ſaid ſum, and hath therefore made application to me in writing for a warrant to diſtrain the ſaid A. B. by his goods and chattels, the ſaid ſum of with the charges of making ſuch diſtreſs, agreeably to a law of the Commonwealth in ſuch caſes made and provided. And the ſaid G. W. having ſhewed me the liſt, (*or* an authenticated copy of ſaid liſt) by which it appears that the ſaid (land) is aſſeſſed as aforeſaid.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you to diſtrain the ſaid A. B. by his goods and chattels, the ſaid ſum of , with the charges of making ſuch diſtreſs, and to ſatisfy the ſame by ſale thereof, returning the overplus, if any there ſhould be, to the owner; and if you can find no goods, or chattels whereon to make

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diſtreſs as aforeſaid, you are in like manner required to take the body of the ſaid A. B. and him commit to the common gaol of the ſaid county of D. there to remain until he pay and ſatisfy the ſum aforeſaid with the charges aforeſaid, or be diſcharged by due order of law.

Given under my hand and ſeal this day of , A. D. 18
S. T.

See under the article POOR PRISONERS.

COSTS.

The following is part of an Act paſſed March 6, 1792, entitled "An Act providing for the Payment of Coſts in Criminal Proſecutions, and for preventing unneceſſary Coſts therein."

AND whereas unneceſſary coſts have ariſen to the injury of the Commonwealth, and to the oppreſſion of individuals, by the ſummoning of unneceſſary witneſſes by Juſtices of the Peace, at the requeſt of private proſecutors of criminal ſuits: For prevention thereof,

Be it further enacted, That no Juſtice of the Peace ſhall hereafter have power to iſſue ſummons for witneſſes to appear at any court, or before any Juſtice of the Peace, except on complaint brought before himſelf, to give evidence in behalf of the Commonwealth, upon any criminal ſuit; unleſs it be by the requeſt of the Attorney General, or perſon acting as State's Attorney in the county where ſuch Juſtice dwells; and no witneſs, ſummoned without ſuch requeſt, ſhall be allowed any pay for his travel or attendance: And when any Juſtice of the Peace ſhall iſſue any ſummons at the requeſt of the party proſecuted, it ſhall be ſo expreſſed in the ſummons, and the witneſs ſhall therein be required to appear and give evidence, upon condition ſuch perſon proſecuted pays him his legal fees, but not otherwiſe.

CREATURES.—See CATTLE, Page 27.

CRIMINAL CASES.

An Act veſting certain Powers in Juſtices of the Peace in Criminal Caſes.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That it ſhall be within the power, and be the duty of every Juſtice of the Peace within his county, to puniſh by ſuch fine as is by the ſtatute law of the Commonwealth provided, all aſſaults and batteries that are not of a high and aggravated nature, and to cauſe to be

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be ſtayed, and arreſted, all affrayers, rioters, diſturbers and breakers of the peace, and to bind them by recognizance to appear at the next Supreme Judicial Court, or Court of General Seſſions of the Peace, to be held within or for the ſame county, at the diſcretion of the Juſtice; and alſo to require ſuch perſons to and ſureties for their keeping the peace, and being of good behaviour until the ſitting of the court they are to appear before, and to commit ſuch perſons as ſhall refuſe ſo to recognize, and find ſuch ſurety or ſureties. And the Juſtices of the Peace ſhall examine into all homicides, murders, treaſons, and felonies done and commited in their counties, and commit to priſon all perſons guilty or ſuſpected to be guilty of manſlaughter, murder, treaſon or other capital offence. And to hold to bail all perſons guilty or ſuſpected to be guilty of leſſer offences, which are not cognizable by a Juſtice of the Peace, and require ſureties for the good behaviour of dangerous and diſorderly perſons; and ſhall take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within their juriſdiction.

And it is further enacted by the authority aforeſaid, That Juſtices of the Peace, within their reſpective counties, be and they are hereby authoriſed and empowered to grant *ſubpœnas* for witneſſes in all criminal cauſes pending before the Supreme Judicial Court, and Court of General Seſſions of the Peace, and before themſelves or any other Juſtice. And all ſheriffs, conſtables, and other officers, are directed and empowered to ſerve any warrant iſſuing from a Juſtice of the Peace; and each Juſtice ſhall have authority to command the aſſiſtance of every ſheriff, deputy ſheriff, conſtable, and all other perſons preſent at any affray, riot, aſſault or battery, and may fine any perſon refuſing ſuch aſſiſtance, in a ſum not exceeding *forty ſhillings*, to be diſpoſed of for the uſe of the town where the offence ſhall be committted, and levied by warrant of diſtreſs on the offender's goods and chattels, and for want thereof, on his body.

And be it further enacted by the authority aforeſaid, That any perſon aggrieved at the ſentence given againſt him by any Juſtice of the Peace, may appeal therefrom to the next Court of General Seſſions of the Peace, to be held within the ſame county, and ſhall, before his appeal is granted, recognize to the Commonwealth in ſuch reaſonable ſum, not leſs than *five pounds*, as the Juſtice ſhall order, with ſufficient ſurety or ſureties for his proſecuting his appeal, and ſhall be held to produce the copy of the whole proceſs, and of all writngs filed before the Juſtice, at the court appealed to. And if he ſhall not there proſecute his appeal, and produce the copies as aforeſaid, the court ſhall order his default to be noted upon their record, and ſhall certify the ſame recognizance, with the record of the default in the performance of the condition thereof, to the Court of Common Pleas, to the intent that a *ſcire facias* may be thereupon iſſued for the recovery of the

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the penalty. And the ſaid Court of General Seſſions of the Peace may order the ſame caſe to be laid before the Grand Jury, or may iſſue an attachment againſt the body of ſuch appellant, and cauſe him thereby to be brought before them, and when he is ſo in court, ſhall affirm the ſentence of the Juſtice againſt him with all additional coſts.

And be it further enacted, That the Juſtices of the Peace ſhall account annually with the treaſurer of the Commonwealth, the treaſurer of their reſpective counties, and the town treaſurer, as the caſe may be, for all fines by them received or impoſed, upon pain of forfeiting the ſum of *ten pounds*, to be ſued for and recovered by the treaſurer of the Commonwealth, the county or town treaſurer for the time being, to which the ſaid fines may reſpectively belong.

[This act paſſed *March* 16, 1784.]

An Act for repealing an Act made and paſſed in the year of our Lord 1692, entitled, "An Act for puniſhing Criminal Offenders, and for re-enacting certain proviſions therein.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That the ſaid act be and hereby is repealed, and made wholly null and void.

And be it further enacted by the authority aforeſaid, That every Juſtice of the Peace, within the county for which he may be commiſſioned, may cauſe to be ſtaid, and arreſted, all affrayers, rioters, diſturbers, or breakers of the peace, and ſuch as ſhall ride or go armed offenſively, to the fear or terrour of the good citizens of this Commonwealth, or ſuch others as may utter any menaces or threatening ſpeeches; and upon view of ſuch Juſtice, confeſſion of the delinquent, or other legal conviction of any ſuch offence, ſhall require of the offender to find ſureties for his keeping the peace, and being of the good behaviour; and in want thereof to commit him to priſon until he ſhall comply with ſuch requiſition: And may further puniſh the breach of the peace in any perſon that ſhall aſſault or ſtrike another, by fine to the Commonwealth not exceeding *twenty ſhillings*, and require ſureties as aforeſaid, or bind the offender to appear and anſwer for his offence at the next Court of General Seſſions of the Peace, as the nature or circumſtances of the caſe may require.

[This act paſſed *January* 29, 1795.]

FORMS.

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FORMS.

I. COMPLAINTS.

I.

General Form.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

Complains upon oath, A. B. of, &c. in said D. That C. D. &c. [*Here set forth the name and place of abode of the party offending, and let the offence be "fully and plainly, substantially and formally described," and the time and place, when and where it was committed.*] which (*or* all which) is contrary to law, and against the peace of the Commonwealth—(or *if it be against a particular statute, say*) against the peace and dignity of the Commonwealth, and a law of the same, entitled "An Act, entitled," &c. (*and it may conclude*) Wherefore the said A. B. prays that the said C. D. may be apprehended and held to answer to said complaint, and further dealt with relative to the same, as to law and justice shall appertain.

Dated, &c. A. B.

D———ff. The abovenamed A. B. made oath to the truth of the above (*or* foregoing) complaint, by him signed, this day of , A. D. 18

Before me, S. T. Justice of the Peace.

II.

Assault and Battery.

To S. T. Esq. one of the Justices assigned to keep the Peace, in and for the county of D.

E. B. of , in behalf of the Commonwealth of Massachusetts, on oath complains against C. D. of , for that he the said C. D. at aforesaid, on the day of , in and upon the said E. B. then and there being in the peace of God, and of said Commonwealth, with force and arms, an assault did make, and him the said E. B. did beat and evilly treat, and other injuries to the said E. B. then and there did, in evil example to all others in like kind to offend, and against the law, peace and dignity of said Commonwealth: Wherefore the said E. B. prays that the said C. D. may be apprehended, and held to answer to this complaint, and further dealt with relative to the same as the law directs.

Dated, &c. E. B.

(*N. B. To be sworn to as in Form* 1.).

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III.

Againſt a Perſon for a Riot.

To S. T. Eſq. one of the Juſtices aſſigned to keep the Peace, in and for the county of D.

E. B. of in the ſaid county of , in behalf of the Commonwealth of Maſſachuſetts, on oath complains againſt C. D. of , and E. F. of , for that they the ſaid C. D. and E. F. with others to your complainant unknown, to the number of *thirty* or more, at on the day of , in the year of our Lord one thouſand eight hundred and , (*or*, that the the ſaid C. D. and E. F. with others to your complainant unknown, to the number of *twelve* or more, being armed with clubs or other weapons) with force and arms unlawfully, routouſly, riotouſly, and tumultuouſly did aſſemble and gather together to diſturb the peace of ſaid Commonwealth; and ſo being then and there aſſembled and gathered together, with force and arms as aforeſaid, unlawfully, routouſly, riotouſly and tumultuouſly , and other wrongs to the ſaid E. B. then and there unlawfully, routouſly, rioutouſly and tumultuouſly did, to the great damage and hurt of the ſaid E. B. contrary to law, and againſt the peace and dignity of ſaid Commonwealth: Wherefore your complainant prays that the ſaid C. D. and E. F. may be apprehended, and held to anſwer to this complaint, and further dealt with thereon as to law and juſtice ſhall appertain.

Dated, &c. E. B.

(N. B. To be ſworn to as in Form 1.)

IV.

For an Affray.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath, E. B. of , That on the day of , C. D. of , E. F. of , and G. H. of , at aforeſaid, in a tumultuous manner and with force and arms made an affray, wherein the perſon of him the ſaid E. B. was beaten and abuſed by them the ſaid C. D. E. F. and G. H. without any lawful or ſufficient provocation given to them or either of them by him the ſaid E. B. contrary to law, and againſt the peace of the Commonwealth.

Dated, &c. E. B.

(N. B. To be ſworn to as in Form 1.)

Another

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V.

Another.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

Complains upon oath, E. B. of , That on the day of , C. D. of , E. F. of , and G. H. of , at aforesaid, in the county aforesaid, being arrayed and unlawfully assembled together in a warlike and tumultuous manner, did, with force and arms, make an affray, to the terrour and disturbance of divers of the citizens of this Commonwealth, in evil example to others, and against the law and peace of the Commonwealth.

Dated, &c. E. B.

(*N. B. To be sworn to as in Form* 1.)

VI.

Information and Complaint against a Person for Burglary.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

E. B. of , upon oath informs the said Justice, That on the day of , in the night time, the dwelling house of him the said E. B. at in the county aforesaid, was feloniously and burglariously broken into and entered, (and , of the value of , the goods and chattels of him the said E. B. was feloniously and burglariously stolen, taken and carried away from thence) and that he hath good cause to suspect and doth suspect that C. D. of (the said felony and burglary did commit *or*) did so enter the said dwelling house with intent to kill, rob and steal, (commit rape, or to perpetrate any other felony, *as the suspicion may be*) against the peace of the Commonwealth, and the laws of the same.

Dated, &c. E B.

(*N. B. To be sworn to as in Form* 1.)

VII.

Complaint against a particular Person for Theft.

To S. T. Esq. one of the Justices of the Peace, within and for the county of D.

E. B. of in said county on oath informs the said Justice, That on the day of , the following goods (*or any certain article*) of the value of , the property of the said , were (or was) feloniously stolen, taken and carried away from the of him the said E. B. at aforesaid, and that he hath probable cause to suspect and doth suspect that C. D. of , in the county of , did steal, take and carry away the same as aforesaid. He therefore prays that the said

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ſaid C. D. may be apprehended, and held to anſwer to this complaint, and further dealt with relative to the ſame according to law.

Dated, &c. E. B.

(*N. B. To be ſworn to as in Form* 1.)

VIII.

Complaint on Theft, and Requeſt for a Warrant to ſearch.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

E. B. of in ſaid county, on oath informs the ſaid Juſtice, that the goods mentioned in the ſchedule annexed, (*or* that the following goods, viz. of the value of , of the value of *or* that a certain article of the value of , *as the caſe may be*) altogether of the value of , the property of the ſaid E. B. have within days laſt paſt, by ſome perſon or perſons unknown to the ſaid E. B. been feloniouſly taken, ſtolen and carried away out of the of him the ſaid E. B. aforeſaid; and that he hath probable cauſe to ſuſpect and doth ſuſpect that ſaid goods, (*or*) or a part thereof, are concealed in the of C. D. of in ſaid county. He therefore prays for a warrant to ſearch there for the ſame.

E. B.

Dated, &c.

(*N. B. To be ſworn to as in Form* 1.)

☞ *For the Form of a Warrant on this Complaint, ſee the Article*

SEARCH WARRANT.

IX.

Complaint of One, againſt a Perſon whom he fears will do him ſome Bodily Injury.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath, E. B. of , That C. D. of , on the day of did threaten (*or* that on this preſent day hath threatened) him the ſaid E. B. to kill (*or* beat, maim or wound) him; and the ſaid E. B is afraid that the ſaid C. D. will kill (beat, maim or wound) him, or do him ſome bodily miſchief. He therefore requires ſurety of the peace and good behaviour againſt the ſaid C. D.; and this he doth not from any private malice, hatred or ill will, but ſimply becauſe he is afraid as aforeſaid; and prays that due proceſs may be iſſued againſt him for that purpoſe.

E. B.

Dated, &c.

(*N. B. To be ſworn to as in Form* 1.)

Warrant

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Warrant thereon.

——, ff.

To the Sheriff of the ſaid county of , or his Deputy, or any of the Conſtables of the town of , in ſaid county,

(L S.)

Greeting.

Foraſmuch as the foregoing complaint hath this day been made before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of :

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts to require and command you forthwith to apprehend the ſaid , therein named, and bring him before me or ſome other of the Juſtices of the Peace for the ſaid county of , to find ſufficient ſurety or ſureties as well for his perſonal appearance before the Juſtices of the Court of General Seſſions of the Peace, which is next to be holden at , within and for the ſaid county of , as alſo that he keep the peace and be of good behaviour towards all the citizens of the Commonwealth, but eſpecially towards the ſaid E. B.

Given under my hand and ſeal, the day of , A. D.

S. T.

X.

Complaint againſt a Perſon for Profane Curſing and Swearing.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county, of D.

E. B. of in ſaid county, on oath complains againſt C. D. of , for that he the ſaid C. at aforeſaid, on the day of , then having arrived at diſcretion, did profanely curſe (*or* ſwear, *as the caſe may be*) in the words following, viz. , contrary to law, and againſt the peace and dignity of this Commonwealth. Wherefore your complainant prays that the ſaid C. may be convened before you the ſaid Juſtice, and held to anſwer to this complaint, and further dealt with thereon as the law requires.

Dated, &c. E. B.

(*N. B. To be ſworn to as in Form* 1.)

XI.

Counterfeiting Current Coin.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of, &c. on oath informs the ſaid Juſtice, that he hath probable cauſe to ſuſpect and doth ſuſpect that C. D. of, &c. hath within theſe days laſt paſt, at forged and counterfeited a number of ſilver or gold coins, or money,

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ey, (the currency of which is eſtabliſhed and regulated by law, *or*) that is current in this Commonwealth.

Or,

hath coloured, gilded or caſed over with gold (*or* ſilver *or* with any waſh or materials producing a colour reſembling any money or coin, the currency of which is eſtabliſhed and regulated by law. (*or* that is current in this Commonwealth.) *Or*, any piece of coarſe gold, or coarſe ſilver, or of other metals, with an intent that it ſhall be coined into counterfeited milled money, reſembling, &c. *Or*, into pieces reſembling, &c. *Or*, hath waſhed, gilded or coloured any lawful or counterfeit ſilver coin, with intent to make ſuch ſilver coin reſemble any gold coin eſtabliſhed, &c. (*as above.*) *Or*, hath waſhed, gilded or coloured, (*or* any ways altered) any copper coin with intent to make it reſemble either the ſilver or gold coin (the currency of which is eſtabliſhed and regulated by law, *or*) current in this Commonwealth; againſt the laws of the Commonwealth, and the peace and dignity of the ſame.

Dated, &c. A. B.

(N. B. To be ſworn to as in Form 1.*)*

XII.

Bringing Counterfeit Money into the Commonwealth, or *being poſſeſſed of any with intent to paſs it.*

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of , on oath informs the ſaid Juſtice, that he hath probable cauſe to ſuſpect and doth ſuſpect that C. D. of , hath within days laſt paſt, brought into this Commonwealth [*here inſert the kind*] falſe, forged or counterfeit money or coins, (*or* that C. D. &c. is poſſeſſed of, &c.) reſembling , the currency of which is eſtabliſhed and regulated by law, (*or* which is current in this Commonwealth) knowing the ſame to be falſe, forged and counterfeit, with an intent to utter and paſs the ſame. A. B.

Dated, &c.

(N. B. To be ſworn to as in Form 1.*)*

XIII.

Uttering Counterfeit Money.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of , on oath informs the ſaid Juſtice, that C. D. of , on the day of , at did utter to [*here inſert the number and kind*] of falſe money or coin, forged and counterfeited to the ſimilitude of the ſilver (*or* gold) money or

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or coins, the currency of which is regulated and eſtabliſhed by law, (*or* current in this Commonwealth) knowing the ſame to be falſe, forged and counterfeit.

A. B.

Dated, &c.

(N. B. To be ſworn to as in Form 1.*)*

XIV.

Making or mending Tools uſed in Counterfeiting Money, or having ſuch in Poſſeſſion with intent to uſe them.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of , on oath informs the ſaid Juſtice, that he hath probable cauſe to ſuſpect and doth ſuſpect that C. D. of , hath within days laſt paſt, at , knowingly made (*or* mended, *or* begun to make or mend) a certain engine, (preſs, ſtamp, mould, pattern, dye, puncher, or other tool) uſed, adapted or deſigned for the coining, forging or counterfeiting gold or ſilver money (viz.) or coin, (the currency of which is regulated and eſtabliſhed by law, *or*) current in this Commonwealth, with an intent to uſe the ſame (*or* with an intent or expectation that the ſame ſhould be uſed and employed) in forging and counterfeiting ſuch ſilver money or coin.

Or,

That C. D. of , at ſaid hath in his poſſeſſion ſuch engine, &c. uſed (adapted or deſigned, &c. *as above*) with an intent to uſe the ſame—*or* that the ſame ſhould be uſed or employed in coining, forging or counterfeiting ſuch ſilver money or coin.

A. B.

Dated, &c.

(N. B. To be ſworn to as in Form 1.*)*

XV.

Engaging in, or Challenging another to fight a Duel.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of, &c. upon oath informs the ſaid Juſtice, that C. D. of, &c. on the day of , at , did for private malice, diſpleaſure, fury or revenge, as your informant hath reaſon to believe, and doth believe, voluntarily engage in a duel with a rapier (ſmall ſword, back ſword, piſtol, or other dangerous weapon, *as the caſe may be*) with , to the hazard of life, and the life of .

Or,

That C. D. of , on the day of , at did challenge of to fight a duel, *or* did accept a challenge

or

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, or did abet, prompt, encourage or ſeduce to fight (or to challenge to fight) a duel, againſt the law, dignity and peace of the Commonwealth.

Dated, &c. A. B.

(N. B. To be ſworn to as in Form 1.)

XVI.

Murder or Manſlaughter

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

A. B. of , on oath informs the ſaid Juſtice, that he hath probable cauſe to ſuſpect, and doth ſuſpect that C. D. of , at , hath wilfully and of malice aforethought murdered , (a perſon whoſe name is to your informant unknown) againſt the peace and laws of the Commonwealth.

Or,

hath committed manſlaughter, by killing , *(as above.)*

Dated, &c. A. B.

(N. B. To be ſworn to as in Form 1.)

XVII.

Arſon, &c.

To S. T. Eſq. one of the Juſtices of the Peace, within and for the county of D.

A B. of , on oath informs the ſaid Juſtice, that he hath probable cauſe to ſuſpect and doth ſuſpect that C. D. of , on the day of , or at did between ſun ſetting and ſun riſing, with force and arms, wilfully and maliciouſly burn the dwelling houſe of , of , *(or* any building adjoining the dwelling houſe, &c. *or* a certain building by means of which the dwelling houſe of) was burnt.

Or,

That C. D. of did wilfully and maliciouſly, between ſun-riſing and ſunſetting, burn *(as above.)*

Or,

did wilfully and maliciouſly burn a barn (warehouſe, ſhop, mill, malt-houſe, out-houſe, any publick building, or other building, or any ſhip or other veſſel) lying within the body of the county of

Or,

did wilfully and maliciouſly burn (any ſtacks of corn, hay, grain, ſtraw, corn-ſtalks, fences, pile of wood, boards, or other lumber.)

Or,

did wilfully and maliciouſly make a fire with a deſign to communicate the ſame to the ſoil, graſs, trees, poles or under bruſh of

Or

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Or.

did wilfully and maliciously suffer a fire so to communicate with, &c. of , as that by means thereof damage was then and there done to the said , the owner thereof, (*or* of the soil, &c.) to the amount of ; against the peace and laws of the Commonwealth.

A. B.

Dated &c.

(*N. B. To be sworn to as in Form* 1.)

XVIII.

Robbery.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

E. B. of , on oath informs the said Justice, that C. D. of , did on the day of , at , feloniously rob and take from [*here insert the articles taken*] contrary to law and against the peace of the Commonwealth.

Or,

That C. D. of , did on the day of , at , with , being an offensive weapon, (*or* did by menace, *or* in a forcible and violent manner) assault him the said E. B. and did then and there demand of him the said E. B. [*goods or money*] the property of him the said E. B. with a felonious intent to rob him, against the peace of the Commonwealth, and the laws of the same.

E. B.

Dated, &c.

(*N. B. To be sworn to as in Form.* 1.)

XIX.

Rape.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

E. B. of , on oath informs the said Justice, that C. D. of , on the day , at , with force and arms in and upon the said B. then and there being in the peace of God and of this Commonwealth, violently and feloniously an assault did make, and her the said E. B. then and there did feloniously ravish and carnally know, committing carnal copulation with her by force as aforesaid, against her will, against the peace of the Commonwealth, and the laws of the same.

Or,

E. B. of , on oath informs the said Justice, that he hath probable cause to suspect and doth suspect that C. D. of , on the day of , at , with force and arms in and upon M. B. the daughter of your complainant, being a woman child

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child under the age of ten years, then and there being in the peace of God and of this Commonwealth, a violent and felonious aſſault did make, and her the ſaid M. B. then and there did feloniouſly, unlawfully and carnally know and abuſe, againſt the peace of the Commonwealth, and the laws of the ſame.

Dated, &c. E. B.

(N. B. To be ſworn to as in Form 1.)

XX.

Deſtroying and Murdering of Baſtard Children.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

E. B. of , on oath informs the ſaid Juſtice, that on the day of , a child was found dead, and your informant hath probable cauſe to ſuſpect and doth ſuſpect that it is a child that was born of the body of N. O. of , and that if it was born alive, would by law have been a baſtard, and that the ſaid N. O. did feloniouſly and unlawfully endeavour privately, either by herſelf or the procurement of ſome other perſon or perſons, to conceal the death of ſaid child, being, as your complainant ſuſpects, the iſſue of her body as aforeſaid, againſt the peace of the Commonwealth, and the laws of the ſame.

Or,

That on a child was found ſecreted at , and your complainant hath probable cauſe to ſuſpect and doth ſuſpect that the ſaid child is the iſſue of the body of N. O. of , and that ſhe the ſaid N O. while ſhe was pregnant with the ſaid child, did feloniouſly and unlawfully conceal her pregnancy, and was willingly delivered of the ſame in ſecret by herſelf, and that ſaid child is by law a baſtard, all which is againſt the peace of the Commonwealth, and the laws of the ſame in ſuch caſe made and provided. E. B.

Dated, &c.

(N. B. To be ſworn to as in Form 1.)

XXI.

Complaint againſt Treſpaſſes.—See article TRESPASSES.

To S. T, Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath A. B. of , that ſome perſon or perſons, to your complainant unknown, hath within days laſt paſt, with force and arms,

1.

cut down and deſtroyed (*or* carried away) , trees of the value of , which before that time were placed (*or* growing for uſe, ſhade or ornament, *as the caſe may be*) upon land, not belonging

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ing to C. D. of , but the property of , being a certain lot situated, &c. said C. not having the consent of the said , the owner of said land, for so doing.

2.

cut down and destroyed (*or* carried away) [*here describe the quantity of*] timber, wood, or underwood, of the value of , which before that time was standing, lying or growing on land not owned by C. D. of , but on land belonging to , being [*here describe the land*] such person or persons not having the consent of the said , the owner of said land, for so doing.

3.

thrown down (*or* opened) [*here describe the* bars or gates, fence or fences, *thrown down or opened*] not belonging to C. D. of , or enclosing lands not belonging to him, but belonging to , and enclosing lands the property of , whereby, &c. [*Here may be mentioned the damage occasioned thereby.*]

4.

injured, marred and defaced [*here describe the* fence or fences *injured, &c.*] not belonging to, or enclosing lands belonging to C. D. of , but belonging to , and enclosing lands the property of , to the damage of the said as he saith, the sum of

5.

dug up and carried away from , a certain lot of land not belonging to C. D. of , but the property of , being [*here describe the land*] [*here describe the quantity* of stones, ore, gravel, clay, land, turf, or mould, roots, fruits, or plants *dug up, &c.*] wherein he the said C. D. hath no interest, to the damage of the said , as he saith, the sum of

6.

cut down and carried away from [*here describe the land*] not belonging to C. D. of , but the property of , [*here describe the quantity* of sedge, grass, hay, or corn,] the property of the said , of the value of , wherein he the said C. D. hath no interest.

7.

taken and carried away from a certain wharf *or* landing place in , wherein C. D. of is not a proprietor or owner, but which belongs to , being [*here describe the wharf* or *landing place,*] [*here describe the goods taken therefrom*] on which the said C. D. hath no interest, of the value of , without leave of the said , or of any person interested therein.

8.

broken [*here describe the kind and quantity of*] glass in a building not belonging to C. D. of , but the property of , to the damage of , as he saith, the sum of ; and your complainant

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complainant hath good cauſe to ſuſpect and doth ſuſpect that the ſaid C. D. did cut down and deſtroy, *or* carry away, (*or* did throw down, or open, *or* did injure, &c. *or* did dig up, &c. *or* , *&c. as the caſe may be*) the ſaid &c. as aforeſaid, againſt the peace of the Commonwealth, and a law of the ſame, entitled "An Act for the more effectually preventing of Treſpaſſes in divers Caſes:" Wherefore your complainant prays that the ſaid C. D. may be apprehended and held to anſwer this complaint, and dealt with as law and juſtice ſhall require.

Dated, &c. E. B.

(*N. B. To be ſworn to as in Form* 1.)

XXII.

Complaint againſt a Tavern Keeper for keeping Implements uſed for Gaming in his Houſe, &c. See article LICENSED HOUSES.

To S. T. Eſq. one of the Juſtices of the Peace, within and for the county of D.

Complains upon oath, A. B. of , That C, D. of , an innholder duly licenſed in ſaid town, hath, ſince he was ſo licenſed as ſuch, that is to ſay, ſince the Tueſday of , and particularly on the , kept in his houſe ſo licenſed (or dependencies, as the caſe may be) cards, (*or*, &c.) being implements of gaming, and on the day of , at ſaid , viz. between the hours of and , did ſuffer to reſort to his ſaid houſe (or dependencies) to uſe and exerciſe within the ſame the game of cards, (*or*, &c.) being an unlawful game and ſport, perſons, viz. , and , and others to your complainant unknown, in evil example to others in like caſe to offend, againſt the peace and dignity of the Commonwealth, and a law of the ſame entitled, "An Act for the due regulation of licenſed houſes," whereby he the ſaid C. D. hath forfeited the ſum of *forty ſhillings*, equal to *ſix dollars* and *ſixty-ſeven cents*.

Wherefore your complainant prays that due proceſs may be iſſued againſt the ſaid C. D. for the recovery of the ſaid penalty, and that the ſame may be diſpoſed of agreeably to the ſaid law.

Dated, &c. A. B.

(*N. B. To be ſworn to as in Form* 1.)

XXIII.

Againſt a Perſon playing at Cards, &c. in a Tavern.—See article GAMING.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath A. B. of againſt C. D. of , and , for that on , &c. at ſaid , viz between the hours of and , he ſaw the ſaid C. play, and the ſaid C. did then and there play at cards, (*or*, &c.) [*Or* , for

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for that the ſaid C. on, &c. at ſaid did expoſe to view cards, *(or*, &c.*)* being implements uſed in gaming] in the houſe *(or* out-houſe, *as the caſe may be)* of E. F. being a tavern and houſe of entertainment, which the ſaid E. F. has been and is duly licenſed to keep in ſaid town.

Or,

For that on the day of , at ſaid , he ſaw the ſaid C. D. ſitting at a table in the houſe of E. F. being a tavern, (*&c. as above*) with implements of gaming, viz. cards, (dice *or*, &c. *as the caſe may be*) before him, in evil example to others in like caſe to offend againſt the peace and dignity of the Commonwealth, and contrary to a law of the ſame, entitled, "An Act to prevent gaming for money or other property," and whereby he the ſaid C. D. hath forfeited a ſum not leſs than *five* nor more than *forty ſhillings* to the uſe of the poor of the ſaid town of .

Wherefore your complainant prays that due proceſs may be iſſued againſt the ſaid C. D. for the recovery of the ſaid penalty, and that the ſame may be diſpoſed of as in and by the ſaid law is directed.

Dated, &c. A. B.

(N. B. to be ſworn to as in Form 1.*)*

II. WARRANTS.

A Warrant may be written under a Complaint, in Form following:

D——ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or either of the Conſtables of the town of , in ſaid county, Greeting.

(L.S.) Foraſmuch as the foregoing complaint hath this day been made upon oath, to me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of :

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to apprehend the body of C. D. therein mentioned, and bring him before me or ſome other of the Juſtices of the Peace for the ſaid county of , that he may be examined touching the premiſes, and dealt with as to law and juſtice ſhall appertain. And you are alike required to ſummon the complainant, and alſo to appear and give evidence relative to the ſubject matter of ſaid complaint, when and where you ſhall have the ſaid C. D.

Given under my hand and ſeal, this day of , A. D. 18 S. T.

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Or *Diſtinctly thus.*

D———, ſſ.

To the Sheriff of the ſaid county of , or either of his Deputies, or either of the Conſtables of the town of , in ſaid county, Greeting.

(L.S) Whereas E. B. of hath (this day) made complaint upon oath to me the ſubſcriber, one of the Juſtices of the Peace within and for the county of , [*That, &c. here the complaint muſt be inſerted. If it be for aſſault and battery for inſtance, it will ſtand generally thus, viz.*] "That C. D. of at on the day of , in and upon the ſaid E. B. then and there being in the peace of God and of this Commonwealth, with force and arms an aſſault did make, and him the ſaid E. B. did beat and evilly treat, and other injuries to the ſaid E. B then and there did againſt the law, peace and dignity of ſaid Commonwealth."

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to apprehend the body of the ſaid C. D. and bring him before me or ſome other of the Juſtices of the Peace within and for the ſaid county of , that he may be examined concerning the ſubject matter of ſaid complaint, and dealt with as to law and juſtice ſhall appertain.

And you are alike required to ſummon the complainant and alſo to appear and give evidence thereon, when and where you ſhall have the ſaid C. D.

Given under my hand and ſeal, this day of , A. D. 18 S. T.

☞ The foregoing are general Forms, which will anſwer in moſt caſes. Particular Forms are inſerted where it appeared they were neceſſary.

III. EXAMINATION—*Of a Felon.*

D———ſſ. The examination of C. D. taken before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of .

The ſaid C. D being charged before me, by E. B. of , with the felonious ſtealing, (*or* having been brought before me upon the complaint of E. B. who ſuſpects that he has ſtolen) out of the of the ſaid E. B. (the following goods, viz.) (*or*) ſaith, *or* confeſſeth and ſaith , or denieth that, &c.

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IV. INFORMATION—*Of a Witneſs.*

D——ff. The information of E. B. of , taken upon oath before the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of

The ſaid E. B. upon oath ſaid, &c.

V. RECOGNIZANCES.

I.

Of a perſon bound to anſwer, &c. at the Court of Seſſions.

C——ff. Memorandum,

That on the day of , *Anno Domini, one thouſand eight hundred and* , perſonally appeared before me, S. T. Eſq. one of the Juſtices of the Peace for the ſaid county of , C. D. of , E. F. of , and G. H. of , and acknowledged themſelves to be ſeverally indebted to the Commonwealth of Maſſachuſetts in the reſpective ſums following, viz. the ſaid C. D. as principal, in the ſum of pounds, and the ſaid E. F. and G. H. as ſureties, in the ſum of each, to be levied on their goods or chattels, lands or tenements, and in want thereof, upon their bodies, to the uſe of the ſaid Commonwealth, if default be made in the performance of the condition here under written.

The condition of the above written recognizance is ſuch, That if the ſaid C. D. ſhall perſonally appear before the Juſtices of Court , for the ſaid county of , which is to be holden at in ſaid county, on the Tueſday of next, to anſwer to ſuch matters and things as ſhall be objected againſt him on behalf of the Commonwealth aforeſaid, more eſpecially to the complaint of , for , *(or as the caſe may be,)* and ſhall do and receive that which by the ſaid Court ſhall then and there be enjoined upon him and not depart without licenſe,

Then the above written recognizance to be void and of none effect; otherwiſe to abide in full force and virtue.

S. T.

II.

Of a Witneſs.

C——ff. Memorandum,

That on, &c. (*as before.*)

The condition of the above written recognizance is ſuch, That if the ſaid ſhall perſonally appear at the next court , which is to be holden at , for and within the ſaid county,

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ty of , and give evidence in behalf of the Commonwealth of what he knows relative to, &c.

Then the said recognizance to be void and of none effect; otherwise to abide in full force and virtue.

III.

On an Appeal from the Sentence of a Justice.

C———ss. Memorandum,

That on the day of , *Anno Domini, one thousand eight hundred and* , personally appeared before me, S. T. Esq. one of the Justices of the Peace for said county of , C. D. of , E. F. of , and G. H. of , and acknowledged themselves to be severally indebted to the Commonwealth of Massachusetts in the respective sums following, viz. the said C. D. as principal, in the sum of pounds, and the said E. F. and G. H. as sureties in the sum of each, to be levied on their goods or chattels, lands or tenements, and in want thereof, upon their bodies, to the use of the said Commonwealth, if default be made in the performance of the condition here underwritten.

The condition of the above written recognizance is such, That whereas the said C. D. hath this day been brought before me to answer to the complaint of E. B. for , and having been adjudged guilty of said offence, hath been sentenced by me the said Justice to

From which sentence he hath appealed to the next Court of General Sessions of the Peace, to be holden at , within and for said county of , on the Tuesday of next.

Now if he the said C. D. shall personally appear before the Justices of said Court, and then and there prosecute his said appeal to effect, and shall do and receive that which by the said Court shall then and there be enjoined upon him, and not depart without license,

Then the above written recognizance to be void and of none effect; otherwise to abide in full force and virtue.

S. T.

IV.

Recognizance for Theft.

1. *To the Commonwealth.*

C———ss. Memorandum,

That, &c. (*as before.*)

The

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The condition of the above written recognizance is ſuch, That if the ſaid ſhall perſonally appear at the next Court of General Seſſions of the Peace for the ſaid county of , to be holden at in ſaid county on the Tueſday of next, to anſwer to ſuch matters and things as ſhall be objected againſt him on behalf of the Commonwealth aforeſaid, more eſpecially to the complaint of for ſtealing, taking and carrying away from [*here mention the goods ſtolen.*] And ſhall do and receive that which by the ſaid court ſhall then and there be enjoined upon him, and not depart without licenſe,

Then the above written recognizance to be void and of none effect; otherwiſe to abide in full force and virtue. S. T.

2. *To the Party Injured.*

C———ſſ. Memorandum,

That on the day of , perſonally appeared before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of , [*here name the principal ſureties*] and acknowledged themſelves to be indebted to as follows, viz. the ſaid as principal, in the ſum of , and the ſaid and as ſureties, in the ſum of each, to be levied on their goods or chattels, lands or tenements, and in want thereof, upon their bodies, to the uſe of the ſaid , if default be made in the performance of the condition here underwritten.

The condition of the above written obligation is ſuch, That if the ſaid ſhall perſonally appear at the next Court of General Seſſions of the Peace for the ſaid county of , to be holden at in ſaid county, on the Tueſday of next, to anſwer the complaint of the ſaid , for ſtealing, taking and carrying away from [*here mention the goods ſtolen*] and ſhall do and receive that which by the ſaid court ſhall be enjoined upon him, and not depart without licenſe,

Then the above written recognizance to be void and of none effect; otherwiſe to abide in full force and virtue. S. T.

☞ I think it unneceſſary to add any other Recognizances.—From theſe, and ſome others inſerted in this book, it will be eaſy to form ſuch as may be required on any other occaſion.

WARRANTS

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VI. WARRANTS OF COMMITMENT.

I.

On not performing a Sentence for Theft.

D———ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the Conſtables of the town of , in ſaid county, and to the Keeper of the Gaol in ſaid county, Greeting.

(L S.) Whereas F. G. of hath this day been convicted before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of , upon the complaint of R. S. of , of the felonious ſtealing, taking and carrying away from the of in of the following goods, viz. (*or*, of) the property of , of the value of , and hath been thereupon ſentenced by me to pay a fine of , to be diſpoſed of as the law directs; and alſo to pay the further ſum of to the ſaid , being treble the value of the goods ſo ſtolen, the value of ſaid goods, if returned, to be deducted therefrom, (*or*, to be accounted as part thereof) to pay coſts of proſecution, taxed at , and to ſtand committed until ſentence be performed. And whereas the ſaid F. G. hath refuſed and now before me refuſes to comply with, and perform ſaid ſentence,

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you to take the ſaid F. G. and him forthwith carry to the gaol in ſaid , and deliver to the keeper thereof. And you the ſaid keeper are alike required to receive the ſaid F. G. into your cuſtody in ſaid gaol, and him there ſafely keep until he ſhall comply with ſaid ſentence, or be otherwiſe diſcharged by due order of law.

Given under my hand and ſeal at aforeſaid, the day of , A. D. 18 S. T.

II.

To hold a Perſon for his Appearance at the Court of Seſſions to anſwer a Charge for Theft.

D———ff. To the keeper of the gaol in ſaid county, Greeting.

Whereas of , has this day been brought before me the ſubſcriber, one of the Juſtices of the Peace, within and for the ſaid county of D. by virtue of a warrant iſſued againſt him upon the complaint of , charging the ſaid with having feloniouſly ſtolen, taken and carried away from the of in ſaid county, on the day of , the following goods, viz. (*or* ſuch an article, *as the caſe may be*) of the value of

And whereas, after due examination of divers witneſſes, it appears to me probable that the ſaid is guilty of ſaid crime, and

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and is thereupon ordered by me to recognize to the Commonwealth in the ſum of ; and alſo to enter into another recognizance with ſufficient ſureties to the ſaid , the owner of ſaid goods, in the ſum of , being treble the value of the ſame, for his appearance at the next Court of General Seſſions of the Peace which is to be holden at , within and for the ſaid county of D. on the Tueſday of next, to anſwer to the ſaid charge, and take his trial thereon.

And whereas the ſaid , now before me, refuſes to enter into ſuch recognizance:

You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to receive the ſaid into you cuſtody in ſaid gaol, and him there ſafely keep until he ſhall recognize as aforeſaid, or be otherwiſe diſcharged by due order of law.

Given under my hand and ſeal at aforeſaid, the day of , A. D. 18

S. T

III.

To commit one who refuſes to find Sureties for the Peace.

D——ſſ.

To the Sheriff of the ſaid county of , or his Deputy, or to either of the Conſtables of the town of , in ſaid county, and to the keeper of the gaol in ſaid county, Greeting.

Whereas C. D. of , by virtue of a warrant iſſued by, and upon the complaint of A. B. of , hath this day been brought before me, S. T. Eſq. one of the Juſtices of the Peace within and for ſaid county, and thereupon required to find ſufficient ſureties to be bound with him in a recognizance for his perſonal appearance at the next Court of General Seſſions of the Peace, to be holden at , within and for ſaid county of D. on the Tueſday of next, and in the mean time to keep the peace and be of good behaviour towards all the citizens of this Commonwealth, and eſpecially towards the ſaid A. B. And whereas he the ſaid C. D. hath refuſed, and doth now refuſe, before me, to find ſuch ſureties: (L.S.)

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to convey the ſaid C. D. to the common gaol in the county aforeſaid, and to deliver him to the keeper thereof, together with this precept; and you the ſaid keeper are alike required to receive the ſaid C. D. into your cuſtody in ſaid gaol, and him there ſafely keep, until he ſhall find ſuch ſureties as aforeſaid, or be therefrom diſcharged by due order of law.

Given under my hand and ſeal, at in ſaid county, this day of , in the year of our Lord 18

S. T. Juſtice of the Peace.

To

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IV.

To commit one charged with a Riot.

D———ff. To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town of in ſaid county, and to the keeper of the gaol in ſaid county,

Greeting.

(L.S.) Whereas C. D. of , E. F. of , G. H. of &c. have this day been brought before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of D. by virtue of a warrant iſſued againſt them upon the complaint of A. B. of , who ſaith, &c. (that they the ſaid C. D. E. F. and G. H. on the day of , at , with force and arms, unlawfully, routouſly rioutouſly and tumultuouſly did aſſemble and gather together to diſturb the peace of the Commonwealth of Maſſachuſetts, and ſo being then and there aſſembled, did with force and arms as aforeſaid, routouſly, riotouſly and tumultuouſly, &c.)

And whereas the ſaid C. D. &c. have thereupon been ordered by me to recognize each in the ſum of , with two ſufficient ſureties each, in the ſum of each, for their perſonal appearance at the next Court , to anſwer to ſaid charge, and to do and receive that which by ſaid court ſhall be then and there enjoined upon them, and not depart without licenſe, which they ſeverally refuſe to do :

You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to take the ſaid C. D. &c. and them convey to the gaol in , in ſaid county ; and you the ſaid keeper are alike required to receive the ſaid C. D. &c. into your cuſtody in ſaid gaol, and them ſafely to keep until they ſhall recognize as aforeſaid, or be otherwiſe diſcharged by due order of law.

Given under my hand and ſeal, at aforeſaid, the day of , in the year of our Lord one thouſand eight hundred and S. T. Juſtice of the Peace.

V.

To commit one who refuſes to perform a Sentence given againſt him.

D —ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the Conſtables of the town of in ſaid county, and to the Keeper of the gaol in ſaid county,

Greeting.

(L.S.) Whereas C. D. of hath this day been convicted before me the ſubcriber one of the Juſtices of the Peace for the ſaid county of , upon the complaint of A. B. of , &c. [*here ſet forth the offence of which he hath been convicted*] and hath been thereupon ſentenced by me to [*here inſert the ſentence*]

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ſentence.] And whereas the ſaid C. D hath refuſed, and now before me refuſeth to comply with and perform ſaid ſentence:

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you to take the ſaid C. D. and him forthwith, carry to the gaol in ſaid , and him deliver to the keeper thereof. And you the ſaid keeper are alike required to receive the ſaid C. D. into your cuſtody in ſaid gaol, and him there ſafely keep until he ſhall comply with ſaid ſentence, or be otherwiſe diſcharged by due order of law.

Given under my hand and ſeal at aforeſaid, this day of , A. D. 18 S. T.

VI.

Where the perſon is charged with or ſuſpected of having committed an Offence not cognizable by a Juſtice.

D———-ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the Conſtables of the town of , in ſaid county, and to the Keeper of the gaol in ſaid county,

Greeting.

(L.S.) Whereas C. D. of hath this day been brought before me the ſubſcriber, one of the Juſtices of the Peace for ſaid county of D. by virtue of a warrant iſſued on the day of by , on the information and complaint of A. B. of , who therein ſaith, that, &c. [*here inſert the words of the complaint*] and whereas it hath appeared to me upon the examination of divers witneſſes, that there is probable cauſe to ſuſpect that he is guilty of ſaid offence, and the ſaid C. D. hath been thereupon required to recognize in the ſum of , with two ſufficient ſureties in the ſum of , for his perſonal appearance at the next Court , which is to be holden at , within and for the ſaid county of , to anſwer to ſaid charge. And whereas the ſaid C. D. hath refuſed and doth now before me refuſe to recognize as aforeſaid:

You are therefore hereby required, in the name of the Commonwealth of Maſſachuſetts, to take the ſaid C. D. and him convey to the common gaol in ſaid county of D. and deliver him to the keeper thereof, together with this precept; and you the ſaid keeper are alike required to receive the ſaid C. D. into your cuſtody in ſaid gaol, and him there ſafely keep, until he ſhall recognize as aforeſaid, or be otherwiſe diſcharged by due courſe of law.

Given under my hand and ſeal at , the day of A. D. 18 S. T.

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VII.

To commit a Perſon for an Offence not bailable.

D———ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the conſtables of the town of , in ſaid county, and to the Keeper of the gaol in ſaid county, Greeting.

(L.S.) Whereas F. G. hath been this day arreſted and brought before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of , on ſuſpicion of a felony by him, as it is ſaid, committed, viz. for

Or,

(L.S.) Whereas F. G. of hath been this day brought before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of , by virtue of a warrant iſſued by , on the day of , upon the information and complaint of H. I. who therein upon oath ſaith, that [*here inſert the words of the complaint.*]

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you to take the body of the ſaid F. G. and him forthwith convey to the common gaol in , in ſaid county, and him deliver to the keeper thereof. And you the ſaid keeper are alike required to receive the ſaid F. G. into your cuſtody in ſaid gaol, and him there ſafely keep until the next Supreme Judicial Court, which is to be holden at , within and for our ſaid county of , on the Tueſday of next, and until he be thence delivered by due courſe of law.

Given under my hand and ſeal this day of , A. D. 18 S. T.

VIII.

General Form.

D———ff.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the Conſtables of the town of , in ſaid county, Greeting.

(L.S.) Whereas hath this day been brought before me the ſubſcriber one of the Juſtices of the Peace within and for the ſaid county of , by virtue of a warrant iſſued againſt him, on the information and complaint of , ſetting forth that . And whereas of ſaid offence, and hath thereupon . And whereas the ſaid , hath refuſed and doth now before me refuſe to .

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you to take the ſaid , and forthwith carry to the gaol in in ſaid county, and deliver to the keeper thereof, together with this precept; and the

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the ſaid keeper is hereby alike required to receive the ſaid into his cuſtody in ſaid gaol, and ſafely keep until ſhall , or be otherwiſe diſcharged therefrom by due order of law.

Given under my hand and ſeal at aforeſaid, this day of , A. D. 18 S. T.

VII. SENTENCES, AND FORMS OF THE RECORDS THEREOF.

I.

General Form, when the Perſon complained of is found guilty.

D———ff.

Be it remembered that on this day of , A. D. 18 , C. D. of is brought before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of , by virtue of a warrant iſſued by me (*or* by S. T. one of the Juſtices of the Peace for the county aforeſaid) upon the complaint and information of A. B. of , who therein upon oath ſaith, That [*here inſert the words of the complaint*] to which charge the ſaid C. D. ſaith that he is guilty, [*or*, to which charge the ſaid C. D. ſaith that he is not guilty. Whereupon, after a full hearing of the cauſe and due examination of the witneſſes ſworn to give true evidence therein, it appears to me that he is guilty.] It is therefore conſidered by me the ſaid Juſtice, that the ſaid C. D. pay a fine of to be diſpoſed of as the law directs, and coſts of proſecution taxed at , and ſtand committed until ſentence be performed.

II.

When he is not guilty.

D——ff.

Be it remembered, &c. (*as before.*)

To which charge the ſaid C. D. ſaith that he is not guilty, and after a full hearing of the cauſe and due examination of the witneſſes ſworn to give true evidence therein, it appears to me the ſaid Juſtice, that he is not guilty. It is therefore conſidered by me the ſaid Juſtice, that he be diſcharged and go without day.

S. T.

III.

Particularly—For Theft.

It is therefore conſidered by me the ſaid Juſtice that the ſaid C. D. pay a fine of , to be diſpoſed of as the law directs, and alſo pay to the ſaid A. B. (*owner of the goods ſtolen*) the further

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ther sum of , as and for the treble of the value of the goods stolen, the value of said goods, if returned, to be accounted as part thereof, and costs of prosecution taxed at , and stand committed until sentence be performed.

S. T.

IV.

On Conviction of a Person apprehended by virtue of a Warrant to search for stolen goods.

D———ff.

Be it remembered, That on this day of , A. D. 18 C. D. of is brought before me the subscriber, one of the Justices of the Peace within and for the said county of , by virtue of a warrant issued by on the day of , upon the complaint of E. B. of , setting forth upon oath, That, &c. [*here insert the words of the complaint.*] In which warrant the officers to whom the same was directed, were required to bring the body of the person or persons in whose possession the said (*goods*) might upon such search be found, before me, or some other of the Justices of the Peace for said county. And now I. H. one of the constables of the said said town of hath made return of a warrant, and therein set forth that he found said (goods) in the possession of the said C. D. whom he hath now brought before me as aforesaid. The said C. D. is thereupon asked whether he be guilty or not guilty of feloniously stealing, taking, and carrying away the (goods) aforesaid, and the said C. D. saith that he is guilty (*or* is not guilty, &c.) Whereupon, &c.

It is therefore considered, &c. (*as before.*)

V.

On the Return of a Peace Warrant—or Complaint of a Person who swears the Peace against Another.

D———ff.

Be it remembered, That on this day of , A. D. 18 L. D. of is brought before me the subscriber, one of the Justices of the Peace within and for the said county of , by virtue of a warrant issued by , on the complaint of E. B. of , who therein upon oath saith, That [*here set forth the complaint.*] And it appearing to me upon due hearing of the complainant (and other witnesses sworn to give true evidence relative to the premises) that the said E. B. hath good ground to fear that the said L. D. will (do him some bodily injury.) It is therefore considered by me the said Justice, that the said L. D. recognize with two sureties in the sum of , to appear at the next Court of General Sessions of the Peace, which is to be holden at , within and for the said county of , on the Tuesday

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Tuesday of next, and answer to such matters and things as may be objected against him, and that he, in the mean time, keep the peace and be of good behaviour towards all the subjects of the said Commonwealth, but especially towards the said E. B.

S. T.

VI.

Appeal.

From which sentence the said L. D. appeals to the next Court of General Sessions of the Peace for the said county of , which is to be holden at in said county, on the Tuesday of next, and enters into recognizance with sufficient sureties as the law directs, to prosecute said appeal with effect. S. T.

CRIMINALS OF OTHER STATES.

An Act for apprehending and securing for trial persons charged with having committed crimes in some other States, and to authorize the Officers of Justice of the other States to continue the execution of their Precepts within this State when necessary.

WHEREAS it will tend to maintain the union and harmony of the United States of *America*, that persons standing charged with the commission of crimes in one of said states, and escaping into another, should be apprehended, secured and sent for trial to the state where the charge arises: Therefore,

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That when any person shall stand charged with the commission of any crimes in any other of said states, and shall escape into this Commonwealth, it shall be lawful for any Justice of the Peace in any county where the offender may be, upon application made for that purpose, to apprehend such offender by warrant, and cause him to be brought before himself, or some other Justice of the Peace of the county, for examination; and it shall be lawful for any Justice, upon such examination (if he shall think proper) to commit such offender to gaol, or send him by warrant to the confines of the state where the offence was committed, if an adjoining one, and there deliver him to a proper officer; or if the offence was committed in a more distant state, to some officer in an adjoining one, if there be any empowered to receive and convey him to such more distant state, in order for trial. And when any offender shall be apprehended in another state, and it may be necessary to carry him through this Commonwealth, in order to his being conveyed

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veyed to the ſtate where the offence was committed, it ſhall be lawful for any Juſtice of the Peace in any county, when applied to, to order ſuch offender to be ſo carried by warrant; and all warrants for ſending offenders to the confines of, or for carrying them though this Commonwealth as aforeſaid, may be directed to, and ſhall be executed by, the ſheriffs or their deputies of the ſeveral counties through which it may be neceſſary to ſend or carry the offender, or to any or either of the Conſtables of the ſeveral towns in ſuch counties reſpectively; all which officers ſhall be directed to proceed with ſuch offender or offenders to the confines of the next adjoining county, and there deliver him or them to ſome proper officer of ſuch county; which proceſs ſhall be repeated and continued until ſuch offender or offenders ſhall have been carried through this Commonwealth, and conveyed to the next adjoining ſtate.

And whereas the publick roads leading from many of the towns in this government, and the towns of the neighbouring governments of *New-Hampſhire*, *Connecticut*, *Rhode-Iſland* and *New-York*, are ſo intermixed that the Officers of juſtice of the ſaid neighbouring governments, in the execution of their office, are oftentimes obliged (the road or direct way ſo leading) to paſs, and even to convey priſoners through towns or lands belonging to this government, and without the juriſdiction of ſuch officer of juſtice, whereby diſputes, difficulties or inconviences will ariſe as well to the prejudice of the publick, as to the damage of private perſons, unleſs ſome proviſion is made in that behalf:

Be it therefore enacted, That the ſheriffs, deputy ſheriffs, conſtables, or other officers of juſtice of the neighbouring governments, with their aſſiſtants, in the execution of any writs, warrants or other proceſs, iſſuing from, or returnable to courts in their reſpective governments, may and ſhall have full liberty, power and authority to paſs and repaſs, and alſo to convey ſuch perſons or things as they may have in their cuſtody, by virtue of any writ or warrants as aforeſaid, in or by any of the roads or ways lying in or leading through any towns or lands of this government, in as full, free and ample manner as the officers of Juſtice of this government do uſe and exerciſe in the diſcharge of their duty and office. And all perſons inſulting or obſtructing ſuch officers of juſtice of the neighbouring governments, in ſuch execution of their office, as they are paſſing through any of the roads or lands of this government, ſhall be ſubject to the ſame pains and penalties as perſons would by law be ſubject unto for inſulting or obſtructing ſimilar officers of juſtice of this Commonwealth, in the due execution of their office.

[This act paſſed *November* 7, 1782.]

[As

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[As the following law is relative to the ſubject of the foregoing, it is thought proper to inſert it here.]

An Act for the appointment of Agents for demanding and receiving Fugitives from juſtice, and for defraying the expenſe of tranſporting them from other States in the Union to this Commonwealth.

Whereas it is provided by the conſtitution of the United States, that "A perſon charged in any ſtate with treaſon, felony, or other crime, who ſhall flee from juſtice and be found in another ſtate, ſhall, on demand of the executive authority of the ſtate from which he fled, be delivered up, to be removed to the ſtate having juriſdiction of the crime," 4th chap.—And whereas by an act of the Congreſs of the United States of America, paſſed on the 12th day of *February*, in the year of our Lord 1793, it is among other things provided, That the executive authority of each ſtate to which any ſuch perſon ſhall have fled, ſhall deliver him over on demand of the executive authority of the ſtate where the crime ſhall have been committed, to the *Agent* of the ſtate which ſhall make the demand; but no proviſion has been made in this ſtate in the appointment of ſuch agents:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That the Governour of this Commonwealth be and hereby is authoriſed, in any ſuch caſe, to appoint an agent or agents to demand of the executive authority of any other of the United States, any perſon who ſhall be charged with treaſon, felony, or any other crime in this ſtate, and may by and with the advice of the Council, iſſue his warrant on the treaſury to defray the expenſes of ſuch agent, in making ſuch demand, and in tranſporting the perſon ſo charged from any other ſtate to this.

SECT. 2. *And be it further enacted,* That when a demand ſhall be made on the executive authority of this ſtate, by that of any other, for the delivery over of any perſon charged with treaſon, felony or other crime, in the ſtate from which the demand ſhall be made, the Governour, with the advice of the Council, ſhall iſſue his warrant under the ſeal of the Commonwealth, authoriſing the agent or agents who ſhall make the demand, to tranſport ſuch perſon ſo delivered over to the line of this ſtate, on the way to the ſtate which ſhall make the demand, at the expenſe of ſuch agent or agents; and ſhall alſo, in ſuch warrant, command all civil officers within the ſtate to afford ſuch agents all needful aſſiſtance in tranſporting ſuch perſon, ſo charged, purſuant to ſuch warrant.

[This act paſſed *June* 18, 1801.]

FORMS.

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FORMS.

I.

Warrant for apprehending a Perſon charged with the commiſſion of a Crime in another State.

D——ff.

To the Sheriff of the ſaid county of D. or either of his Deputies, and to the Conſtables of the ſeveral towns in ſaid county,

(L.S.) Whereas it appears to me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. That C. D. of , in the ſtate of , who hath made his eſcape into this Commonwealth, ſtands charged upon the complaint of , *(or, as the caſe may be)* with [*here inſert the offence with which he ſtands charged.*] And whereas have made application to me, to apprehend the ſaid C. that he may be ſecured and ſent to the ſaid ſtate of for trial :

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you, and you are hereby required and commanded forthwith to apprehend the ſaid C. D. that he may be brought before me or ſome other Juſtice of the Peace for the ſaid county of D. that he may be examined concerning the premiſes, and proceeded with as to law and juſtice ſhall appertain.

Given under my hand and ſeal, this day of , A. D. 18 S. T.

If it be neceſſary to ſend ſuch Offender to Gaol, a Warrant for that purpoſe may be made out in form following.

II.

Mittimus.

D——ff.

To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town of in ſaid county, Greeting.

(L.S.) Whereas C. D. of , in the ſtate of , who hath made his eſcape into this Commonwealth, and ſtands charged upon the complaint of , *(or as the caſe may be)* with [*here inſert the offence*] hath been this day brought before me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of D. and examined concerning the premiſes, and it appearing to me that there is probable cauſe to ſuſpect that he is guilty of ſaid offence :

Theſe

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Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you to take the ſaid C. D. and him convey to the gaol in , in ſaid county of D. and deliver to the cuſtody of the keeper thereof. And the ſaid keeper is alike required to receive the ſaid C. D. into his cuſtody in ſaid gaol, and him there ſafely keep, that he may be ſent for trial to the ſaid State of , or otherwiſe diſcharged by due order of law.

Given under my hand and ſeal this day of , A. D. 18

S. T.

III.

Warrant to ſend ſuch Perſon to another State.

Commonwealth of Maſſachuſetts.

D———ſſ.

To the Sheriffs of the ſeveral counties of and , and their reſpective Deputies, and to the Conſtables of the ſeveral towns in each of ſaid counties, and to any or either of them, Greeting.

(L.S.) Whereas C. D. of , in the State of , who ſtands charged on the complaint of , *(or as the caſe may be)* with [*here inſert the offence*] hath been apprehended by virtue of a warrant iſſued by me the ſubſcriber, (*or*, by , Eſq.) one of the Juſtices of the Peace for the ſaid county of D. upon the application of , and it appearing to me that there is probable cauſe to ſuſpect that the ſaid C is guilty of ſaid offence.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you, and each of you are hereby required and commanded, to take the ſaid C. D. and him convey to the confines of your reſpective counties, and there deliver him to ſome proper officer of the next adjoining county, and thus proceed with the ſaid C. from county to county, until he ſhall be carried through this Commonwealth, and conveyed to the confines of the State of thereto adjoining, where you are to deliver him to a proper officer, (*or if the offence was committed in a more diſtant State*, to ſome officer in an adjoining one, *if there be any*, empowered to receive and convey him, *to ſuch more diſtant State*) in order for trial.

Given under my hand and ſeal this day , A. D. 18

S. T.

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IV.

Warrant to convey through this Commonwealth, an Offender apprehended in another State.

Commonwealth of Maſſachuſetts.

D——— ſſ.

To the Sheriffs of the ſeveral counties of and , and their reſpective Deputies, and to the Conſtables of the ſeveral towns in each of ſaid counties,

Greeting.

(L.S.) Whereas C. D. of , in the State of , hath been apprehended in ſaid State, being charged upon the complaint of , (*or as the caſe may be*) with [*here inſert the offence.*] And whereas it appears to me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. to be neceſſary to carry the ſaid C. through this Commonwealth, in order to his being conveyed to the State of , where the ſaid offence was committed.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you, and you are hereby required and commanded, at the requeſt of , who hath made application to me to iſſue a warrant for the purpoſe, to take the ſaid C. D. and him convey to the confines of your reſpective counties, and there deliver him to ſome proper officer of the next adjoining county and thus proceed with the ſaid C. from county to county, until he ſhall be carried through this Commonwealth, and conveyed to the confines of the State of thereto adjoining, where you are to deliver him to a proper officer, (*or if the offence was committed in a more diſtant ſtate*, to ſome officer in an adjoining one, *if there be any*, empowered to receive and convey him, *to ſuch more diſtant State*) in order for trial.

Given under my hand and ſeal this day of , A. D. 18 S. T.

CURSING.—See PROFANE CURSING and SWEARING.

DEEDS.—See ACKNOWLEDGEMENT.

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DEPOSITIONS.

An Act prescribing the Mode of taking Depositions and administering Oaths and Affirmations.

SECT. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That when any civil cause shall be pending in any court or before any Justice of the Peace in this Commonwealth, and the writ, original summons, or complaint therein, shall have been served on the defendant, or be pending before referees or arbitrators, and either party in the cause shall think it necessary to have the testimony therein of any person who shall live more than thirty miles from the place of trial by a court, jury, referees or arbitrators, or shall be bound on a voyage to sea before, or be about to go out of the Commonwealth and not to return in time for the trial; or shall be so sick, infirm or aged, as not to be able to travel and attend at the trial, then the deposition of such person may be taken before any Justice of the Peace, not being of counsel or attorney to either party, or interested in the event of the cause, provided notice be given and proceedings be had as hereinafter directed.

SECT. 2. *Be it further enacted,* That when either party in the cause shall apply to a Justice of the Peace to take such deposition, he shall give notice to the adverse party, if living within twenty miles of the place of taking the same, in substance as follows, to wit:

——ss.

To of , in the county of , (*addition*) Greeting.

Whereas A. B. of , in the county of , (*addition*) has requested me to take the deposition of of , in the county of , (*addition*) to be used in an action of , pending between you and the said A. B. and the house of , in , and the day of , in the year of our Lord , at of the clock in the noon, are appointed the time and place for the said deponent to testify what he knows relating to the said action; you are hereby notified that you may then and there be present, and put such interrogations as you may think fit.

Given under my hand and seal, at on the day of , in the year of our Lord.

S. T. Justice of the Peace.

And the service of this notification on the said adverse party, or his attorney, by leaving an attested copy thereof at his last and usual place of abode, allowing time for his attendance after being notified, not less than at the rate of one day, Lord's days exclusive, for every twenty miles travel, and such service being proved by the affidavit of a disinterested witness, or by the return on said notification

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tification of the ſheriff or his deputy of the county, or of the conſtable of the town where the ſaid adverſe party or his attorney ſhall live, ſhall be deemed ſufficient notice And when the ſaid adverſe party, in any caſe, ſhall live more than twenty miles from the place of taking any depoſition, and his or her attorney ſhall live within that diſtance, ſuch attorney ſhall be notified as aforeſaid, *mutatis mutandis*. But no perſon, for the purpoſes of this act, ſhall be conſidered as the attorney of another, until ſuch attorney ſhall have endorſed the writ, or endorſed his name on the ſummons to be left with the defendant in the cauſe; or until he ſhall have appeared for his principal in the cauſe, before the Juſtice of the Peace, referres or arbitrators, or in the court where the ſaid action ſhall be pending, or ſhall have given notice in writing, ſtating he is attorney in the cauſe, to the other party or his attorney. And where there are ſeveral plaintiffs or defendants in any action, ſuch notice to one of them, or the notice aforeſaid to be given by the ſaid Juſtice, given to one of them, ſhall be deemed ſufficient.

SECT. 3. *Be it further enacted*, That every perſon depoſing as aforeſaid, ſhall be carefully examined, and cautioned and ſworn or affirmed to teſtify the whole truth and nothing but the truth, and ſhall ſubſcribe the teſtimony by him or her given, after the ſame ſhall be reduced to writing; which ſhall be done only by the juſtice taking the depoſition, or by the deponent, or ſome diſintereſted perſon, in the preſence of the ſaid Juſtice; and the depoſition ſo taken ſhall be retained by ſuch Juſtice, until he deliver the ſame, together with a certificate of the reaſons for taking ſuch depoſition, and of notice, if any, with his own hand, to the court, Juſtice, referees or arbitrators, for which it may have been taken, or ſhall, together with ſuch certificate as aforeſaid, be ſealed up by him, and directed to ſuch court, Juſtice, referees or arbitrators, and remain under his ſeal until opened in court, or by ſuch Juſtice, referees or arbitrators. Which certificate ſhall be in ſubſtance as follows, to wit:

——ſſ.

On the day of , in the year of our Lord , the aforeſaid deponent was examined and, cautioned, and ſworn (or affirmed) agreeable to law, to the depoſition aforeſaid by him ſubſcribed, taken at the requeſt of , and to uſed be in an action of , now pending between him and , before [*here name the court, Juſtice, referees or arbitrators*] and the adverſe party was or was not preſent, (*as the caſe may be*) or living more than twenty miles from the place of caption, was not notified, the ſaid deponent living more than thirty miles from the place of trial, or being about to go out of the Commonwealth, and not to return in time for the trial, or being bound on a voyage to ſea, or being ſo ſick, or being ſo infirm, or being ſo aged as to be unable to travel and attend at the trial, is the cauſe of taking this depoſition.

S. T. Juſtice of the Peace.

SECT.

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SECT. 4. *Be it further enacted*, That such Justice, when requested by the party applying as aforesaid, shall issue his summons to the deponent, in substance as follows, to wit;

——ff

To of , in the county of , (*addition*) Greeting.

Whereas A. B. of , in the county of , (*addition*) has requested me to take your deposition to be used in an action now pending between him and , and the house of in , and the day of , in the year of our Lord , at of the clock in the noon are appointed the time and place for taking the same deposition; you are hereby required, in the name of the Commonwealth of Massachusetts, then and there to appear to testify what you know relating to the said action. Hereof fail not.

Given under my hand and seal, at , the day of , in the year of our Lord

S. T. Justice of the Peace.

Which summons, when served, and the service thereof proved as before prescribed in the case of the said notification, shall be deemed good and sufficient. And if any deponent so summoned shall neglect to appear at the time and place appointed in the summons, and having tendered to him or her *thirty-four cents*, for his or her time, and *four cents* a mile for his or her travel, computing from the deponent's said place of abode to the place of caption and back, such deponent shall be subject to like actions, forfeitures and attachment as are provided by law, where witnesses are summoned to court and do not appear.

SECT. 5. *Be it further enacted*, That if on the trial of any cause, either party shall make it appear probable to the court that it will not be in his power to produce the witnesses, there testifying on the appeal or review of the cause, and shall move that their testimony be taken down in writing, it shall be done by the clerk of the said court, or by such Justice of the Peace as the court shall appoint; and if any appeal or review be had, such testimony may be used, if it shall appear to the satisfaction of the court that the witnesses are then living more than thirty miles from the place of trial, or dead, or gone out of the state, or on a voyage to sea, or so sick, infirm or aged, as then to be unable to travel and attend at the trial, and not otherwise. And in every case (as oral testimony examined and cross examined in open court, is to be preferred to deposition, when it can be reasonably had) where the deposition of a witness shall have been taken, it shall not be used in the course of the trial by the court, Justice, referees or arbitrators, if the adverse party shall then make it appear that the reasons for taking the said deposition no longer exist, but that the witness is within the said distance, and able personally to appear.

SECT. 6. *Be it further enacted*, That all depositions taken out of this Commonwealth, before any Justice of the Peace, publick notary,

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tary, or other perſons legally empowered to take depoſitions in the State or county where ſuch depoſitions ſhall be taken and certified, may be admitted as evidence in any civil action, or rejected, at the diſcretion of the court. *Provided nevertheleſs*, That if the adverſe party or his attorney ſhall live within twenty miles of the place of caption, no depoſition ſhall be admitted, unleſs it ſhall appear by the caption or affidavit, that ſuch adverſe party or his attorney was notified at the time and place of caption.

SECT. 7. *Be it further enacted*, That the Juſtices of the Supreme Judicial Court and of the Court of Common Pleas may grant a *dedimus poteſtatem*, to have depoſitions taken either within or without the Commonwealth, in any action, ſuit or controverſy, pending in ſaid courts reſpectively, on ſuch terms and conditions as they from time to time ſhall preſcribe.

SECT. 8. *Be it further enacted*, That where any depoſition ſhall be taken in perpetual remembrance of a thing, it ſhall be done by the Juſtices of the Peace, *quorum unus*, and they ſhall cauſe ſuch as they know to be intereſted, to be duly notified of the time and place of the caption, if within twenty miles thereof, and if without that diſtance, their attorney, if any they have; and the depoſition being reduced to writing by one of the Juſtices, or by the deponent in their preſence, and ſubſcribed, the ſaid Juſtice ſhall adminiſter the oath, and certify the caption in ſubſtance as follows, to wit:

Commonwealth of *Maſſachuſetts*.

——ſſ

Town of , this day of , in the year of our Lord , perſonally appeared before us the ſubſcribers, two Juſtices of the Peace in and for the county , *quorum unus*, the aforeſaid deponent, and after being carefully examined, and duly cautioned to teſtify the whole truth and nothing but the truth, made oath or affirmed, that the foregoing depoſition by him ſubſcribed, is true. Taken at the requeſt of , to be preſerved in perpetual remembrance of the thing. And we duly notified all perſons living within twenty miles of this place of caption, we knew to be intereſted in the property to which the ſaid depoſition relates; and attended, (if any perſons ſo notified did attend) or we not knowing any perſon living with in twenty miles of ſaid place of caption, intereſted in the property whereunto the aforeſaid depoſition relates, did not notify any perſons to attend.

And the ſame depoſition ſhall, within ninety days, be recorded in the office of the regiſter of deeds in the county where the land lies, if the depoſition reſpected real eſtates, and if the ſame reſpected perſonal eſtates, then in the ſaid office of the county where the perſon lives for whoſe uſe ſuch depoſition was taken; and ſuch certificate ſhall be certified, on the depoſition, and the ſame depoſition ſo certified, or a copy of the ſaid record may, in the caſe of the death of ſuch deponent, abſence out of the ſtate, or inability to attend

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attend the court as aforesaid, be used as evidence in any cause to which it may relate.

SECT. 9. *Be it further enacted*, That every quaker, who, on any lawful occasion, shall be required to take an oath as a witness in any cause, or as a juror in any civil cause, shall, instead of the usual form, be permitted to affirm in these words, to wit: "I, A. B. *do solemnly and sincerely affirm, under the pains and penalties of perjury*," which affirmation shall be deemed of the same force and effect his or her oath would have been on the same occasion, taken in the usual form. And if any quaker, making such affirmation, shall be convicted wilfully, falsely and corruptly to have testified in any matter or thing, he or she so offending shall incur the same penalties and forfeitures as by the laws of this Commonwealth are enacted against persons convicted of wilful and corrupt perjury.

SECT. 10. *Be it further enacted*, That if any persons shall wilfully, falsely and corruptly swear or affirm in giving or making any deposition or affidavit in this act provided to be taken, he or she shall incur the same penalties as if the testimony had been taken in open court, and wilful perjury committed in giving the same. And in the administration of oaths in this Commonwealth, the ceremony of lifting up the hand as heretofore used, shall be practised with such exceptions as to Mahometans and other persons, who believe that an oath is not binding unless taken in their accustomed manner, as the several courts shall find necessary in the execution of the laws.

SECT. 11. *Be it further enacted*, That this act shall take effect and be in force on and after the first day of *July* next; and that all laws enacted in this Commonwealth on the subject matter of this act, before the first day of *November*, A. D. one thousand seven hundred and eighty, shall, on and after the first day of *July* next, be repealed so far as they shall relate to all depositions and affidavits which shall be taken on and after that day.

[This act passed *February* 3, 1798.]

DOCKET.

AS it is proper that every Justice of the Peace should have a book to enter actions brought before him for trial, as well as other matters proper for record, and as a regular and systematick mode of proceeding is found convenient in almost every line of business, I flatter myself it will not be unacceptable if I exhibit in this place, the following plan of a book to be provided and kept for these purposes. It may be varied as any Justice shall judge most convenient.

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I have thought it sufficient to divide this into three parts only, viz. 1. An Account of WRITS issued.* 2. An Account of WARRANTS issued And 3. ENTRIES of ACTIONS, and other Acts and Doings of a Justice.

WRITS.

Date.	Name of the Plaintiff.	Name of the Defend.	Time of Trial.
1795.			
Feb. 25.	William Brown.	Jonathan Careless.	March 18, 10 A. M.
March 19.	Reuben Carter.	Peter Paynot.	April 8, 2 P. M.
June 4.	Solomon Cash.	Zebulon Poor.	July 26, 10 A. M.

(Here may be left as much space, or as many pages in his Docket, or have a distinct book for the purpose, as the Justice shall judge convenient.)

WARRANTS.

When issued.	Name of the Complainant.	Name of the Person complained of	Nature of the offence	To whom delivered.
1795.				
April 9.	William White.	Levi Lawless.	Assault and Battery.	J. Bagley, Constable.
June 18.	James Saunders.	Thomas Folly.	Theft.	B. Bailey, dep. Sher.
August 3.	Jonas Stone.	Samuel Firebrand.	Duelling.	G. Waite, Sheriff.

(Here the Justice will leave as many pages in his Docket, before he begins the third part, or have a book for the purpose, as he shall judge proper.)

ENTRIES.

* However improper it may seem for a Justice to draw a Writ, upon an action which is to be tried and determined by himself, it is usually, and in many cases necessarily, practised; and perhaps, as the law now stands, it may be considered as the duty of a Justice, when application is made to him for that purpose. Yet I confess I had rather try an action which I knew nothing of, until it was entered, and explained before me, in the hearing of the defendant, than one which the plaintiff had previously related to me, and which, on such relation, I had judged proper to commence in his behalf.

Some attentive reader of this note, wrote in the margin of the page where it was inserted in the first edition of the Book, the following question, viz. "Might not a Justice who had a disposition, or who might find it necessary to commence an action, do it before some of his brother Justices with more propriety than before himself?"

In what manner the law should be construed which prohibits a Justice from being of counsel to either party, and in particular whether he may write a defendant's plea, I leave to every Justice to determine for himself.

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ENTRIES.

Parties' Names.

No.	Time when.	Plaintiff. Defendant.
1.	1795. April 2.	Jonathan Freeman, vs. Charles Tuttle. Parties appear. Judgment for plaintiff, £. 3. 10. Damages; costs. £. 0. 12. 3. *(Execution issued, April 6, 1795.)*
2		Anthony Sumner, vs. Andrew Negligent. Defendant defaulted. Judgment for Plaintiff £. 2. Damages; Costs, £. 0. 16. 0. *(Execution issued, April 6, 1795.)*
3	June 9.	William Needy, vs. John Wheelwright. Parties appear. Judgment for Defendant. Costs taxed at 4/6. Plaintiff appeals and recognizes himself in £. 5. Sureties, A. B. C. D. 50/. each.
4		Hezekiah Tardy, vs. John Sharper. Complaint,—— Costs allowed the Complainant, 6/.
5	July 8.	Peter Patient, vs. Aaron Aimwell. Parties appear, and agree to refer this Action (and all demands) to Matthew Makepeace, Samuel Lovegood, and Thomas Candour. Report of them, or any two of them, to be made to me on the 10th of Auguſt next, at 3 o'clock, P. M. Judgment thereon to be final. Continued to that time
6	10.	Commonwealth, vs. Thaddeus Ring. Aſſault and Battery.] Defendant pleads not guilty, but after a full hearing, it appears that he is guilty, and is fined 6/. and is to pay coſts, taxed at ——. Delivered to the cuſtody of J. B. Conſtable.
7		Commonwealth, vs. Samuel Slyboots. Theft.] Defendant pleads guilty, and is fined 10/. To pay treble damages; 30/. Of which the goods ſtolen, if returned, to be accounted part. Coſts 15/. and to ſtand committed until ſentence be performed. Delivered to the cuſtody of J. A. Dep. Sheriff.
8		Commonwealth, vs. Joſeph Reſtleſs. Challenge to fight a Duel.] Defendant recognizes to appear and anſwer at the next Supreme Judicial Court, himſelf principal in £. Sureties A. B. and C. D. in £. each.
9	Auguſt 1.	Commonwealth, vs. James Long. Profane Swearing.] Defendant pleads not guilty, but it appears on trial that he is guilty, and is fined 4/. and to pay coſts Defendant appeals and recognizes in £. 10. Sureties A. B. and C. D. £. 5. each.
10	Sept. 3.	Thomas Rush, came before me and confeſſed that he had broken the Peace by ſtriking Joſeph Harmleſs, on this day of , and is fined 4/. Coſt 2/4.

Hannah

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11	Sept, 4.	HANNAH HEEDLESS, came before me and confeſſed that ſhe had committed the crime of Fornication on the day of , and paid a fine of 6ſ. being the firſt offence.
12	6.	I joined in marriage Mr. A. B. of , with Miſs C. D. of .
13	7.	JOHN FREEMAN, Adminiſtrator on the eſtate of Edward Freeman; took the oath by law required of Executors, Adminiſtrators and Guardians, previous to the ſelling real eſtate.

DOGS.

An act to prevent Damage by miſchievous Dogs.

WHEREAS many perſons in this Commonwealth have been greatly expoſed by being ſuddenly aſſaulted by miſchievous dogs; and may have alſo ſuſtained great damage by ſuch dogs worrying, wounding and killing neat cattle, ſheep and lambs, and in various other ways; for the prevention of which,

Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That from and after paſſing this act, it ſhall and may be lawful for any perſon or perſons in this Commonwealth, to kill any dog that ſhall ſuddenly aſſault them while they are quietly and peaceably walking or riding any where out of the encloſure of the owner or keeper of ſuch dog; and it ſhall alſo be lawful for any perſon to kill any dog that ſhall be found out of the encloſure or immediate care of its owner or keeper, worrying, wounding or killing any neat cattle, ſheep or lambs.

And be it further enacted, That if any perſon ſhall be aſſaulted by any dog in manner as aforeſaid, or if any dog ſhall hereafter be found ſtrolling out of the encloſure or immediate care of its owner or keeper, by day or by night, and the perſon ſo finding ſuch dog, ſhall, at any time within *forty-eight hours* after ſuch an aſſault, or the finding ſuch dog ſtrolling as aforeſaid, make oath thereof before any Juſtice of the Peace for the county, or clerk of the town where the owner of ſuch dog ſhall dwell, (who are hereby empowered to adminiſter ſaid oath, and to certify the ſame) and ſhall further ſwear, that he really ſuſpects ſuch dog to be a dangerous or miſchievous dog, and ſhall give notice thereof to ſuch owner or keeper, by delivering him a certificate of ſuch oath, ſigned by ſuch Juſtice or clerk, it ſhall be the duty of the owner or keeper of ſuch dog, forthwith to kill or confine the ſame; and if he ſhall neglect ſo to do, for the ſpace of *twenty-four hours* after notice is given as aforeſaid,

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aforesaid, he shall forfeit and pay the sum of *forty shillings*, to any person that shall sue for the same, to be recovered with costs by action of debt, before any Justice of the Peace in the county in which such owner or keeper dwells, reserving liberty of appeal to either party from such Justice's judgment, as in other civil actions.

And be it further enacted, That if, after such notice, such dog shall not be killed or confined, but shall again be found trolling out of the enclosure or immediate care of its owner or keeper, it shall and may be lawful for any person to kill such dog; and if sued therefor, (or for killing a dog, as in and by the first enacting cause of this act is provided) to plead the general issue, and give this act, and the special matter in evidence under it.

And be it further enacted, That if any dog, after notice is given as aforesaid, shall, by any sudden assault, in manner as aforesaid, wound or cause to be wounded any person, or shall worry, wound or kill any neat cattle, sheep or lambs, or do any other mischief, the owner or keeper shall be liable to pay to the person injured thereby, treble damage, to be recovered with cost, by action of debt, before a Justice of the Peace, in the county where such owner dwells, if such treble damage doth not exceed *four pounds*; but if it doth exceed that sum, then before the Court of Common Pleas in such county, reserving liberty of appeal to either party, as in other civil actions.

And be it further enacted, That all laws heretofore made, for preventing damage being done by unruly dogs, (except such as are enacted to prevent damage being done by dogs in the Island of *Nantucket*) be and they are hereby repealed, except so far as they shall respect any suit already commenced.

[This act passed *February* 25, 1792.]

An Act in addition to an Act, entitled "An Act to prevent Damage by mischievous Dogs."

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That from and after the passing this act, it shall be the duty of every person in this Commonwealth, who is or may be the owner or keeper of any dog, and the parent, guardian, master or mistress of any minor or servant, who is or may be the owner or keeper of any dog, to cause such dog so kept, constanly to wear a collar of some kind, with the name of the owner and the town or place of his residence, inscribed at length, in legible letters, on said collar.

SECT. 2. *And be it further enacted*, That it shall and may be lawful for any person, from and after the passing this act, to kill any dog found going at large, not wearing a collar as aforesaid.

SECT. 3. *And be it further enacted*, That when any dog shall do any damage, either to the person or the property of any person, the owner or keeper of any such dog, and also the parent, guardian, master or mistress of any minor or servant, who shall own or keep

any

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any ſuch dog, ſhall be liable to ſuch ſum in damages, as ſaid perſon may have ſuſtained by ſaid dog; but the defendant in any ſuch action, may give any ſpecial matter in evidence in excuſe or juſtification, under the general iſſue; and law, uſage or cuſtom to the contrary notwithſtanding.

SECT. 4. *And be it further enacted*, That an act, entitled "An Act to leſſen the dangerous evils of canine madneſs, and other injuries occaſioned by dogs," paſſed *February* 19, 1798, be and the ſame is hereby repealed, excepting ſo far as relates to the proſecuting for any injuries and the collecting any taxes under ſaid act.

[This act paſſed *February* 19, 1799.]

FORMS.

I.

Complaint of one who has been aſſaulted by a miſchievous Dog.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath E. B. of , That within twenty-four hours laſt paſt, he hath been ſuddenly aſſaulted, while he was quietly and peaceably walking (*or* riding) from to , in ſaid county, by a dog belonging to (*or* in the keeping of) C. D. of ; the ſame dog then and there being out of the encloſure (*or* immediate care) of the ſaid C. and that he really ſuſpects that the ſaid dog is a dangerous and miſchievous dog.

Dated, &c. E. B.

D———ſſ. A. D. 18 The abovenamed E B. perſonally appeared and made oath to the truth of the above complaint by him ſigned.

S. T. Juſtice of the Peace.

II.

Complaint reſpecting a Dog found out of the Encloſure of its Owner.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath E. B. of , That within twenty-four hours laſt paſt, he found a dog, which he really ſuſpects to be a dangerous and miſchievous dog, ſtrolling out of the encloſure of , the owner (*or* out of the immediate care of , the keeper) of ſaid dog, viz. at , in , &c.

Dated &c. E. B.

D———ſſ. A. D. 18 The abovenamed E. B. perſonally appeared and made oath to the truth of the above complaint by him ſigned.

Before me, S. T. Juſtice of the Peace.

Record

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III.

Record thereof.

D———ff. Be it remembered, That on this day of E. B. of perſonally came before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. and made oath, That, &c. [*here inſert the words of the complaint*] a certificate of which oath I have made out and delivered to the ſaid E. B.

S. T.

IV.

Certificate to be given to one who has been aſſaulted by a miſchievous Dog.

D———ff. I hereby certify, That on this day of , A. D. 18 perſonally came before me the ſubſcriber, one of the Juſtices of the Peace for ſaid county, E. B. of , and made oath, That within twenty-four hours laſt paſt, he hath been ſuddenly aſſaulted, while he was quietly and peaceably walking (*or* riding) from to , at in ſaid county, by a dog belonging to (*or* in the keeping of) C. D. of ; the ſame dog then and there being out of the encloſure (*or* immediate care) of the ſaid C. and that he really ſuſpects that the ſaid dog is a dangerous and miſchievous dog.

It is therefore the duty of the ſaid C. D. agreeably to a law of the Commonwealth in ſuch caſes made and provided, forthwith to kill or confine the ſaid dog.

S. T.

V.

Certificate reſpecting a Dog found out of the Encloſure of its Owner.

D———ff. I hereby certify, That on this day of , A. D. 18 perſonally came before me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. E. B. of , and made oath, That within twenty-four hours laſt paſt, he found a dog which he really ſuſpects to be a dangerous or miſchievous dog, ſtrolling out of the encloſure of , the owner (*or* out of the immediate care of , the keeper) of the ſaid dog, viz. at , in , &c.

It is therefore the duty of the ſaid C. D. agreeably to a law of the Commonwealth in ſuch caſes made and provided, forthwith to kill or confine the ſaid dog. S. T

☞ For the Form of an Action of Debt, ſee page 40.

EXECUTIONS.

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EXECUTIONS.

BY an Act passed *March* 17, 1784, entitled "An Act directing the issuing, extending and serving of Executions," it is enacted,

1. That the party obtaining judgment in a civil action, in any Court of Judicature within this Commonwealth, shall be entitled to have his execution thereon at any time after the expiration of *twenty four hours* after judgment rendered, and within one year next after the entering up of such judgment. *Provided*, That there is no appeal granted or bond given for a review.

2. That executions issuing from a Justice of the Peace shall be made returnable within *sixty days* from the day of issuing them.

3. When executions shall be returned without any satisfaction made, or satisfied only in part, the clerk of the court from whence, or Justice from whom, such execution issued, shall, upon application of the creditor, make out an *alias* or *pluries* execution for the whole or the remainder, as the case may be, until the judgment shall be fully satisfied. But if the party shall neglect for the space of one year next after obtaining judgment, to take out his execution, or shall not within one year next after his execution shall be returned not satisfied, take out his *alias* or *pluries*, he shall sue out his writ of *scire facias*, and shall cause the adverse party to be served with the same personally, or by leaving an attested copy thereof at his last and usual place of abode, *fourteen days* before the sitting of the court, notifying him to shew cause if any he hath, why execution ought not to be done; and upon his non-appearance or not shewing sufficient cause, the court shall award execution for what remaineth, with additional cost.

EXEMPTIONS.

NO Justice of the Peace, qualified to act in his office, shall be liable to be put into the box as a Petit Juror. (See JURORS.) Justices of the Peace are also exempted from being enrolled in the militia.—See MILITIA.

FEES.

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FEES.

An Act eſtabliſhing and regulating the Fees of the ſeveral Officers, and other Perſons, hereafter mentioned, and for repealing the Laws heretofore made for that Purpoſe.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That from and after the firſt of *April* next, the fees of the ſeveral perſons hereafter mentioned, for the ſervices reſpectively annexed to their names, ſhall be as follows, viz.

Juſtices' Fees.

For every blank writ of attachment, and ſummons thereon, or original ſummons, *ſeventeen cents.* For the declaration in each writ of attachment and ſummons thereon, or original ſummons triable before a Juſtice, *forty cents.* Every ſubpœna, for one or more witneſſes, *ten cents.* For the entry of an action, or filing a complaint in civil cauſes, including filing of papers, examining, allowing and taxing the bill of coſts, and entering up the judgments and recording the ſame, *ſixty one cents.* The trial of an iſſue, *fifty cents.* Copy of every evidence, original paper, or record, if under a page *ten cents;* if upwards of a page, at the rate of *twelve cents* per page. Writ of execution, *twenty-five cents.* A recognizance to to proſecute an appeal, including principal and ſurety, *twenty cents.* Taking affidavits out of court to be uſed in the trial of any cauſe actually depending, *twenty cents;* for the Juſtice's travel therefor, both going and returning home, at the rate of *fifty cents* for every ten miles; for writing the depoſition, caption, and notification, at the rate of *twelve cents* per page: And the Juſtice, who ſhall take any depoſitions, ſhall certify his own and the deponent's fees. Taking affidavits, in perpetual remembrance of the thing, to each Juſtice, *twenty cents;* and for his travel and the writing, the ſame as in the caſe laſt mentioned. Adminiſtering an oath to perſons appointed to appraiſe eſtates, or to appraiſe and divide real eſtates, together with certificates of the ſame, *twenty cents.* Adminiſtering an oath to one or more witneſſes at the ſame time before referees or arbitrators, *twenty cents;* and for travel for that purpoſe, the ſame as in the caſe of taking affidavits. Taking the acknowledgment of a deed with one or more ſeals, provided it be at one and the ſame time, and certifying the ſame, *ſeventeen cents.* Granting a warrant, ſwearing appraiſers relating to ſtrays, and entering the ſame, *thirty-two cents.* Adminiſtering oaths in all other caſes with certificates, except oaths to town, diſtrict or pariſh officers, *twenty cents.* Receiving a complaint and iſſuing a warrant in criminal caſes, *fifty cents.* Entering a complaint in criminal

proſecutions,

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profecutions, rendering judgment and recording the ſame, examining, allowing, and taxing the coſts and filing the papers, *ſeventy-five cents.* Recognizing perſons charged with crimes, for their appearance at the Court of General Seſſions of the Peace, or at the Supreme Judicial Court, and for certifying and returning the ſame with or without ſureties, *twenty-five cents*, to be paid by the perſon ſo recognizing. For a mittimus for the commitment of any perſon on a criminal accuſation, *twenty-five cents.*

Coroner's Fees.

For ſerving a writ, ſummons or execution, and for collecting the monies due thereon, and for travel in returning precepts and inquiſitions, the ſame allowance as is by this act allowed to ſheriffs for ſimilar ſervices. For a bail-bond, *twenty-five cents.* Every trial where the Sheriff is concerned, *twenty five cents;* and the ſame for attending the jury therein. Granting a warrant and taking an inquiſition on a dead body, *one dollar;* if more than one at the ſame time, and who came to their death by the ſame means, *twenty cents* for each one after the firſt. Travel and expenſe for taking an inquiſition, *one dollar* a day, to each of the jurymen for their travel, if above four miles out, *three cents* a mile each way, and for their ſervices *ſeventy five cents* per day, including time and expenſes. The conſtable for his attendance and expenſes in ſummoning a jury, *ninety cents* a day. And all the aforeſaid charges of the inquiſition ſhall be paid out of the county treaſury, except ſuch as are taken upon bodies of ſtrangers, not belonging to this Commonwealth; and in ſuch caſes, the expenſes ſhall be paid out of the treaſury of this Commonwealth, an account of ſuch expenſes being firſt examined and allowed by the Court of General Seſſions of the Peace, in the county in which ſuch inquiſition ſhall be taken.

Fees of Judges of Probate.

For granting adminiſtration where there is no litigation, *fifty cents;* and in other caſes, *one dollar.* Appointing or allowing guardians to minors, *forty cents* in each caſe, except in caſes where one guardian is appointed for more than one minor, when the Judge ſhall be entitled to *five cents* each, for all more than one minor. A decree reſpecting the probate of a Will or Codicil, where the ſame is not conteſted, *fifty cents;* and in all other caſes, *one dollar.* Examining and allowing an inventory, ſwearing the executor or executors, adminiſtrator or adminiſtrators, *twenty cents.* Swearing appraiſers of an eſtate, *fifteen cents.* Examining and allowing accounts, not exceeding two pages, *forty cents*, and for all above two pages, at the rate of *fifteen cents* each page. A decree for ſettling an inteſtate eſtate, *forty cents.* A citation, *fifteen cents.* A ſummons for one or more witneſſes, *ten cents.* A quietus,

twenty

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twenty cents. A warrant to appraiſe or divide eſtates, *thirty cents.* Iſſuing a commiſſion to receive and examine the claims of creditors, when an eſtate is repreſented inſolvent, *twenty cents.* An order of diſtribution, *twenty cents.* Granting an appeal to the Supreme Court, *twenty cents.*

Regiſter of Probate's Fees.

For writing a bond and letter of adminiſtration, *forty cents.* Writing a bond and letter of guardianſhip, and making record thereof, for one minor, *ſixty cents*, and if for more than one minor for whom the ſaid guardian is appointed at the ſame time, *ten cents* for each minor more than one. Drawing a decree reſpecting the probate of a Will or Codicil, *forty cents.* Writing a bond for the executor, *twenty cents.* Writing a warrant to appraiſe the eſtate of a perſon deceaſed, *twenty cents.* A warrant to divide an inteſtate eſtate among the heirs; writing a warrant to ſet off a widow's dower, or a warrant to receive and examine the claims of an inſolvent eſtate, *twenty cents.* Entering the account of an executor, adminiſtrator or guardian, and an allowance thereof, or for entering on an inventory the oath of an executor or adminiſtrator *fifteen cents.* Drawing up a decree on the ſettlement or partition of an eſtate, *twenty cents.* For drawing an order of diſtribution, *twenty cents.* A quietus, *twenty cents.* A citation, *fifteen cents.* A ſummons for a witneſs or witneſſes, *ten cents.* Proportioning an inſolvent eſtate among the creditors thereto, at the rate of *fifty cents* for every twelve creditors, every creditor's proportion being diſtinguiſhed. Recording any matter, at the rate of *twelve cents* each page, and the ſame for a copy of any paper. A bond of appeal, *twenty cents.* And no fee ſhall be demanded by the Regiſter of Probate, for taking from the files in his office, or tranſporting to the place of the ſitting of the Probate Court, ſuch papers as are neceſſary in the ſettlement of any eſtate or account in the ſaid Court.

In the Court of Common Pleas.

Juſtices' Fees.

For the entry of an action including the taxing of the bill or coſts, *eighty cents.* And in every action where an iſſue in law of fact is joined, *one dollar*, in addition to the fee for entry. Granting an appeal and taking a recognizance of the principal and ſurety or ſureties, *twenty cents.* Proving a deed, *twenty cents.* Surrender of a principal into court, by his bail, *twenty cents.* Granting a writ of protection, *twenty-five cents.* Entering a petition and making an order thereon for the ſale or partition of a real eſtate, *ſeventy cents.* Accepting partition of real eſtate, *forty cents.* Accepting a report of referees, where the acceptance thereof is conteſted, *ſixty cents*, otherwiſe, *thirty cents.*

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Fees of the Clerk of the Court of Common Pleas.

For the entry of an action, including the taxing of the bill of costs and filing the papers, *fifty cents*. Entering and recording a verdict or report of referees, *twelve cents*. Every action withdrawn or nonsuit, *eight cents*. Confessing judgment or default, or joinder in demurrer, *ten cents*. Entering up judgment and recording the same at large, when no issue is joined, *twenty cents*; and where an issue in law or fact is joined, *forty cents*. Acknowledging satisfaction of a judgment on the record, *eight cents*. Entering an appeal and recognizing principal and sureties, *fifteen cents*. Continuing each cause to the next term, *twelve cents*. Entering the surrender of the principal into court, and making a record thereof, *fifteen cents*. For entering a petition and order thereon for the partition or sale of real estate, *twenty cents*; and for recording such petition and order, at the rate of *twelve cents* a page. Entry of a rule of court, upon the parties submitting a cause to referees, *fifteen cents*. Proving a deed in court and certifying the same, *twenty cents*. Every blank writ of attachment, with summons thereon, *fifteen cents*. Every blank writ of *scire facias*, or original summons, *fifteen cents*. An original or alias writ of execution in personal matters, and filing the same, when returned, *twenty-five cents*. A writ of possession in real actions, *forty cents*. A writ of protection or *habeas corpus*, *twenty five cents*. A subpœna for one or more witnesses, *ten cents*. A *duces tecum*, *twenty-five cents*. Each *venire facias* for Jurymen to be paid out of the county treasury, *five cents*. Opening and filing a deposition, *eight cents*.

In the Court of General Sessions of the Peace.

To each Justice.

For each day's constant attendance in court, *one dollar*. And no Justice shall be allowed pay for more than two days' attendance at any one term. To each Justice who shall travel more than ten miles to the court house or place where the court sits, at the rate of *one dollar* for every twenty miles travel, computing out and home; the travel and attendance to be paid out of the county treasury; except such Justices as are sworn attornies at law or clerks of the several Courts of Sessions, who shall not be allowed for travel or attendance; the clerk of said court shall keep an account of their attendance as aforesaid. And all fines that shall be affessed by said court, and are not otherwise appropriated by law, shall be paid into the county treasury, for the use of the county.

Fees of the Clerk of the Court of General Sessions of the Peace.

Entering an indictment, prefentment, complaint or information, including the recording of the judgment of the court therein, examining and casting the bill of costs, and filing the paper, *sixty-five cents*.

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cents. Discharging a recognizance, *ten cents.* Each warrant for a criminal, *twenty cents.* Each subpœna for witness or witnesses, *ten cents.* Each recognizance for an innholder or retailer including principal and sureties, and for transmitting the name of the licensed person to the selectmen, and recording the license, *fifteen cents.* A warrant for county tax, *twenty cents.* Warrant to lay out or alter a road, *twenty cents.* Examining and casting the Grand Jurors' account yearly, and the order thereon, *thirty cents.* Examining any other account, *eight cents.* Recording the reports of highways and other matters by order of the court, *twelve cents* a page. Copies of all papers of records, *twelve cents* a page. Entering an appeal, and recognizing principal and sureties, *twenty cents.* Keeping an account of the attendance of the Justices of the Court of General Sessions each term, to be paid out of the county treasury, *seventy-five cents.*

In the Supreme Judicial Court.

Justices' Fees.

Entering an action or complaint, including the taking of a bill of cost, *one dollar* and *twenty cents.* Taking special bail, *forty cents.* Allowing a writ of error, granting *certiorari*, *habeas corpus*, or other writ, on motion, *forty cents.* Granting a writ of protection, *thirty cents.* Proving a deed, *twenty cents.* Entering a petition, and making an order thereon for the sale or partition of real estate, *one dollar.* Accepting a partition of real estate, *forty cents.* The foregoing fees to be paid to the clerk of said court, who shall, some time in the month of December annually, certify to the Governour and Council the sums by him so taken and received and paid over to the said Justices, that the same may be deducted from the said Justices' salary; and the Governour and Council are hereby empowered to deduct the same accordingly.

Fees of the Clerk in the Supreme Judicial Court.

Entering each action for trial, *seventy cents.* Entering each complaint, *thirty-five cents.* Receiving and recording a verdict, *forty cents.* A writ of review, *seventy cents.* A writ of *scire facias*, *forty cents.* An original writ of execution, including the taxing of the costs and filing of the papers, *sixty-five cents.* An original writ of *habere facias possessionem*, including the taxing of the costs and filing of the papers, *eight cents.* An alias writ of execution, *thirty-five cents.* An alias writ of *facias habere possessionem*, *fifty cents.* A writ of *habeas corpus*, *forty cents.* Copies of all papers containing less than one page, *ten cents* each; of all papers containing more than a page, at the rate of *twelve cents* a page. Entering a rule of court, *fifteen cents.* Confessing judgment or default, *twenty cents.* Every action withdrawn or nonsuit, *twenty cents.* Entering an appearance, *ten cents.* Acknowledging satisfaction of a judgment on

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on record, *twelve cents*. Continuing each cauſe and entering the ſame next term, *twenty cents*. Proving a deed in court, and certifying the ſame, *twenty cents*. Entering up a judgment and recording the ſame at large, in caſes where judgment is rendered on verdict, demurrer, or ſtate of facts, *ſixty cents*; and in all other caſes, *thirty cents*. For each *venire facias* for Jurymen to be paid out of the county treaſuries reſpectively, on the Juſtices' certificate, *ſix cents*. Every writ and ſeal, other than before mentioned, *forty cents*. Every ſubpœna for one or more witneſſes, *ten cents*. Each recognizance, including principal and ſureties, *twenty cents*. Recording judgment in every criminal cauſe, *forty cents*. A writ of protection, *twenty cents*. Entering a diſcharge of a recognizance by proclamation, *fifteen cents*. For opening and filing a depoſition, *ten cents*.

Allowance to Parties and Witneſſes.

To parties recovering coſts, for an attorney in all cauſes where an iſſue in law or fact is joined in the Supreme Judicial Court, *two dollars fifty cents*; and in all other cauſes in ſaid court *one dollar, twenty-five cents*. And in all cauſes in the Court of Common Pleas, and Courts of General Seſſions of the Peace, where an iſſue in law or fact is joined, *one dollar* and *fifty cents*; and in all other cauſes in ſaid court, *one dollar*. For the declaration in each writ, *fifty cents*. For parties recovering coſts, whether in the Supreme Judicial Court, Court of Common Pleas, General Seſſions of the Peace, or before a Juſtice of the Peace, *thirty-three cents* for each day's attendance and travel, ten miles to be accounted as one day; no allowance ſhall be made for travel to or from the clerk's office to take out a writ or ſummons, or carry the ſame to an officer; and no plaintiff ſhall be allowed for more than three days attendance when the defendant is defaulted, unleſs the defendant appears in court and makes anſwer to the plaintiff's ſuit; in which caſe, if the defendant is defaulted, after the expiration of three days, no attendance ſhall be taxed for the plaintiff after the day when the default ſhall happen. *Provided neverthelefs*, That when the party recovering coſts in any court ſhall live more than forty miles from the place of holding ſuch court, and ſuch party ſhall not actually travel to attend the ſame court in ſuch cauſe, there ſhall not be allowed for travel, in taxing the bill of coſts, more than forty miles diſtance, unleſs ſuch party ſhall employ ſome agent or attorney, who ſhall in fact travel more than forty miles for the ſpecial purpoſe of attending ſuch court in ſuch cauſe. In a criminal cauſe, where one or more defendants are tried by the Jury at the ſame time, in the Supreme Judicial Court, or where the cauſe is determined by an iſſue in law for the Attorney-General, or perſon attending for the Commonwealth, *two dollars* and *fifty cents*. And if there be no trial by the Jury, and the cauſe be not determined

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mined by an iſſue in law, *one dollar twenty-five cents*, and in all cauſes in the Court of General Seſſions of the Peace, *one dollar* and *twenty-five cents*. Drawing an indictment in the Supreme Judicial Court, *one dollar* and *twenty-five cents*; and in the Court of General Seſſions of the Peace, *ſixty-five cents*. Witneſſes in civil or criminal cauſes, whether in the Supreme Judicial Court, Court of Common Pleas, or General Seſſions of the Peace, *ſeventy-five cents* for each day's attendance, and *four cents* for each mile's travel, going out and returning home: And before a Juſtice of the Peace, referees or arbitrators, *thirty-three cents* per day, and for their travel the ſame as at other courts; *provided*, ſuch witneſſes do perſonally attend ſaid courts reſpectively, and certify in writing their time and travel.

Sheriffs' and Conſtables' Fees.

For the ſervice of an original ſummons or *ſcire facias*, either by reading the ſame, or by copy, on one defendant, *thirty cents*; if on more than one defendant, then for each other defendant ſo ſerved, *thirty cents*. For the ſervice of a *capias* or attachment on one defendant with ſummons, *thirty cents*; if ſerved on more than one defendant, then *thirty cents* for each defendant ſo ſerved. And if the officer, by the written direction of the plaintiff or plaintiffs, his or their agent or attorney, ſhall make a ſpecial ſervice of any ſuch writ, either by attaching property or taking the body therefor, ſuch ſpecial ſervice on each defendant on whom ſuch writ ſhall be ſo ſerved the ſheriff ſhall be allowed *fifty cents*. And where the officer is by law directed to leave a copy in order to complete the ſervice, or ſhall give a copy of any precept upon demand thereof, he may charge at the rate of *twelve cents* a page. For a bail bond and writing the ſame, including principal and ſureties, to be paid by the perſon admitted to bail, and taxed for him if he ſhall prevail, *twenty cents*. Serving writ of poſſeſſion excluſive of fees for collecting on the coſts, *one dollar* and *ten cents*; if on more than one piece of land, *ſeventy-five cents* for each piece of land after the firſt. The fees for collecting the coſts on a writ of poſſeſſion the ſame as on executions in perſonal actions. Serving a warrant, *thirty cents*. Sheriff's aid in criminal caſes, to each perſon for every twelve hour's attendance, including expenſes, *one dollar*, and ſo in proportion for a greater or leſs time, and *four cents* for each mile's travel going out and returning home. Summoning witneſſes in criminal caſes, *ten cents* for each witneſs, and travel as in civil cauſes, unleſs in ſpecial caſes when the court may increaſe the fee to what they may judge reaſonable. For the ſheriffs' or conſtables' attending the courts and keeping the priſoner in criminal caſes, *ſeventy-five cents* for every twelve hours, and ſo in proportion for a greater or leſs time. Levying executions in perſonal actions, for the firſt one hundred dollars, *four cents*; for every

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ery dollar above that, and not exceeding two hundred dollars, *two cents* for every dollar; and for all above two hundred dollars, *one cent* for every dollar. Travel for the ſervice of ſuch executions, and alſo of mean proceſſes or warrants to him directed, *four cents* a mile; the travel to be computed from the place of ſervice to the court or place of return by the uſual way, only one travel ſhall be allowed for one writ, execution or warrant, and if the ſame be ſerved on more than one perſon, then the travel ſhall be computed from that place of ſervice which may be moſt remote from the place of return, with all further neceſſary travel in ſerving ſuch execution, writ or warrant: But if the travel from the place of ſervice to the place of return be more than fifty miles, then only *one cent* a mile ſhall be allowed for all travel exceeding that diſtance. The travelling fees and fees of ſervice ſhall be endorſed by the officer ſerving the ſame, otherwiſe they ſhall not be allowed. Serving an execution upon a judgment of court for partition of real eſtate, or aſſigning of dower, *one dollar* a day, and *four cents* a mile out from the place of his abode. And no ſheriff ſhall demand or receive from any of his deputies, more than at the rate of twenty-five per cent. on the amount of fees for travel and ſervice. Every trial on a Court of Record, *fifteen cents*. Every default, *eight cents*. For returning the certificates of votes of the ſeveral towns for a Governour, Lieutenant-Governour, Counſellors and Senators to the Secretary's office, *eight cents* a mile, computing from the place of his abode to the ſecretary's office, to be paid out of the treaſury of the Commonwealth, and but one travel ſhall be allowed for the whole. To the officer attending the Grand Jury, for each day's attendance, *ſeventy-five cents*. The officer attending the Petit Jury, for every cauſe to be paid with the Jury fees, *twenty-five cents*. For diſperſing venires for Jurymen, treaſurer's warrants, and proclamations of all kinds, *eight cents* each. To each appraiſer of real eſtate for extending execution or aſſigning dower, *one dollar* a day, and travel at the rate of *four cents* a mile, going out and returning home. For every deputy ſheriff or conſtable who ſhall attend the Supreme Judicial Court, or Court of General Seſſions of the Peace or Common Pleas, by their order, *ſeventy-five cents* a day, to be paid out of the county treaſury. And for the encouragement of the ſheriff in each county to take and uſe all poſſible care and diligence for the ſafe keeping of priſoners committed to his cuſtody, he ſhall have ſuch ſalary allowed him as the Juſtices of the Court of General Seſſions of the Peace within the ſame county ſhall order, not exceeding *forty dollars* a year for the county of Suffolk, and not exceeding *twenty-five dollars* a year for any of the other counties within the Commonwealth, to be paid out of the treaſury of ſuch county. To conſtables for the ſervice of venires, *twenty-five cents*, and *four cents* a mile for travel to the clerk's office, to be paid out of the county treaſury.

Crier's

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Crier's Fees.

Calling a Jury, *eight cents*, to be paid with the Jury fees. A default or nonſuit, a judgment affirmed on complaint, a verdict or demurrer, *fifteen cents* each. Diſcharging a recognizance by proclamation, *eight cents*. Said fees to be paid to the clerk for the uſe of the crier.

Gaoler's Fees.

Turning the key for each priſoner committed or diſcharged, *twenty cents*. Dieting each priſoner, ſuch ſum weekly as the Court of Seſſions ſhall from time to time judge reaſonable.

For Marriages.

To the town clerk for publiſhing the banns of matrimony, recording the ſame, giving a certificate of the publiſhment, and recording the marriage upon receiving the Juſtice's or miniſter's certificate thereof, *fifty cents*, to be paid by the man publiſhed, on receiving a certificate of the publiſhment. And the town clerk ſhall not in future be holden to return certificates of marriages to the clerks of the Courts of General Seſſions of the Peace, nor clerks laſt mentioned to record the ſame. To every miniſter or Juſtice of the Peace who ſhall lawfully ſolemnize a marriage and certify the ſame, *one dollar* and *twenty-five cents*. To the town clerk for recording births and deaths, *eight cents* each. For a certificate of a birth or death, *ten cents*. For a ſubpœna for one or more witneſſes, *ten cents*.

Fees in the Secretary's Office.

For a certificate under the ſeal of the Commonwealth for the benefit of particular perſons, *one dollar*. For every order of notice from the General Court upon petition, *forty cents*. Every other order, *forty cents*. For all copies for the benefit of particular perſons, at the rate of *twelve cents* a page. The ſecretary ſhall keep an account of all fees by him received by virtue of this act, that the General Court may once a year know the amount thereof, and take the ſame into conſideration at the time of making a grant to him for his ſervices. And it is to be underſtood that a page, as mentioned in this act, ſhall contain two hundred and twenty-four words.

Meſſenger of the General Court.

Serving every warrant which the General Court or either houſe may iſſue for impriſoning or taking into cuſtody any perſon, *forty cents*. For travel therefor each mile out and in *ſix cents*. Keeping and providing food for ſuch perſon, *forty cents* a day. For the diſcharge or diſmiſſion of ſuch perſon, *forty cents*.

County

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County Regiſter's Fees.

For entering and recording a deed or other paper, of the length of one page or under, *twelve cents*; and for certifying on the original the time when, and the book and page where the ſame may be recorded, *five cents*. If the inſtrument recorded exceed the length of a page, at the rate of *fourteen cents* a page; the fees to be paid at the offering of the inſtrument. For all copies at the rate of *fourteen cents* a page. For entering in the margin a diſcharge of a mortgage, to be ſigned by the perſon diſcharging the ſame, *twelve cents*.

Allowance to Jurors.

And be it further enacted by the authority aforeſaid, That the Grand Jurors attending at the Supreme Judicial Court, and Court of General Seſſions of the Peace, and the Jurors for trials attending either of the ſaid courts or the Court of Common Pleas, ſhall, each be allowed *ninety cents* a day for their attendance, and *four cents* a mile for their travel out and home; to be paid out of the county treaſury. And there ſhall be paid to the clerk of the Supreme Judicial Court, and to the clerk of the Court of Common Pleas, and to the clerk of the Court of General Seſſions of the Peace reſpectively, by the plaintiff or appellant, the ſum of *ſix dollars* for the trial of each civil action, for the uſe of the county; and the ſaid clerks reſpectively, ſhall forthwith pay over the ſame to the county treaſurer.

And be it further enacted by the authority aforeſaid, That any conſtable in any town or diſtrict within this Commonwealth, be and he hereby is authoriſed and empowered to ſerve upon any perſon or perſons in the town or diſtrict to which he may belong, any writ, ſummons or execution in any perſonal action, where the damage ſued for or recovered ſhall not exceed *ſeventy dollars*, and return thereof to make to the court to which the ſame may be returnable.

And be it further enacted by the authority aforeſaid, That the clerks of the ſeveral courts, and other perſons keeping publick offices, ſhall conſtantly have a liſt of the fees by this act preſcribed, ſo far as it relates to them reſpectively, printed or wrote out in legible characters, and hung in ſome convenient and conſpicuous place in their reſpective offices. And the regiſter of probate ſhall put and keep up in ſome conſpicuous part of the room, a liſt of fees for Judge and regiſter, in every other place beſides his office as aforeſaid, where a Probate Court may be holden, during the holding of the ſaid court in ſuch place.

And be it further enacted, That every officer or other perſon upon receiving any ſuch fees as are ſtated in this act, ſhall, if required by the perſon paying the ſame, make out the particular account of ſuch fees in writing, ſpecifying for what they accrued, upon pain

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pain of forfeiting to the party paying such fees, treble the sum by him or them so paid, to be recovered with costs, by an action of debt in any court proper to try the same.

And be it further enacted by the authority aforesaid, That if any person shall wilfully and corruptly demand and receive any greater fee or fees for any of the services afor said than are by this act allowed and provided, he shall forfeit and pay the sum of *thirty dollars* for every offence, to be recovered with costs, either by presentment in the Supreme Judicial Court, or Court of General Sessions of the Peace, in which case the forfeiture shall accrue to the Commonwealth; or by action of debt in the Court of Common Pleas, in which case the forfeiture shall be for the use of any person who may sue for the same. But no such presentment or action shall be sustained unless made or commenced within one year next after the time when the offence may be committed.

And be it further enacted, That all laws heretofore made for regulating and establishing fees for the services herein mentioned, shall, from and after the first day of *April* next, be and they hereby are repealed, except so far as respects any prosecution for an offence that is or may be committed against said Act before the first day of *April*.

And be it further enacted, That this act shall continue and be in force for the term of two years from and after the first day of *April* next, and until the end of the then next session of the General Court.

[This act passed *February* 13, 1796.]

Although I have inserted, as above, the act establishing the fees of the several offices of court, many of which are necessary to be known by a Justice of the Peace, it may be expected that in a book of this kind, some directions should be given with respect to making up a

Bill of Cost.

In civil actions, it consists principally, as the law now stands, of—The writ and summons—The service—The entry of an action—Party's travel and attendance—The travel and attendance of witnesses; and *subpœnas*. The whole of these collected may be divided into six parts, viz.

1. The blank writ and summons, *seventeen cents*, and summons thereon, *forty cents*, making *fifty-seven cents*.

2. The service This is *thirty cents* for a common, and *fifty cents* for a special service. Travel, *four cents* a mile.

3. The entry of an action. This, including the filing of papers, examining, allowing and taxing the bill of costs, and entering up the judgment and recording the same, is *sixty one cents*; for a default in action, and if there be a trial, it is *fifty cents* more.

4. The parties' travel and attendance. This is *thirty-three cents* a day, and as much for every ten miles travel out and home.

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5. The travel and attendance of witneſſes. This is *thirty-three cents* a day, and *four cents* a mile for travel out and home.

6. Subpœnas. Theſe are *ten cents* each.

A Bill of Coſts, in actions under *four pounds*, may then be made up, as follows, viz.

	Cents.
1. Writ, &c.	57
2. Entry, &c.	61
If a trial, 50 cents more,	50
3. Service of the writ,	30
Travel (ſay) 8 miles at 4 cents,	32
4. Parties' attendance (ſay) 1 day,	33
Travel (ſay) 20 miles,	66
5. Witneſſes, viz.	
A. B. attendance (ſay) 1 day,	33
Travel (ſay) 8 miles at 4 cents,	32
C. D. (ſay) 1 day's attendance,	33
Travel (ſay) 20 miles at 4 cents,	80
6. Subpœna,	10
In the whole,	*Dols.* 5 17

In criminal caſes, a Bill of Coſt may conſiſt of the following particulars, viz.

1. The Complaint. There is no particular fee ſtated for a complaint; but as it appears conſonant to the law which gives diſcretionary power to the Court of Seſſions in particular caſes, that a Juſtice ſhould exerciſe it in cauſes that come within his cognizance; and as a complaint is ſomewhat like an indictment found at ſuch court, for which a fee (viz. *ſixty-five cents*) is by law eſtabliſhed; and as it appears reaſonable that a juſt and adequate allowance ſhould be made for all ſervices done in bringing offenders to juſtice, I apprehend it is not improper (and I believe it is commonly done) to tax a fee for a complaint.

2. Receiving a complaint and iſſuing a warrant. A doubt has been entertained by ſome Juſtices whether they have a right or not to tax a fee for ſwearing the complainant, or whether the oath is included under the word, *Receiving* a complaint. Thoſe who are of the former opinion, ſay, that the fee-bill allows *twenty cents* for adminiſtering oaths with certificates in all caſes not therein particularly mentioned. By others it is conſidered that the receiving of a complaint includes the adminiſtration of the oath to the complainant. Be this as it may, it is ſaid that *fifty cents* for a complaint, whether the oath be included or not, is not an unreaſonable fee. To a gentleman of the bar who ſhould draw one, it will be conſidered as but a moderate allowance; and if a Juſtice ſhould, as is moſt frequently the caſe, make one out from a printed form or blank which is uſually prepared for ſuch purpoſes, it muſt in general

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general, I think, be considered as a sufficient fee, although the oath should be included. From these considerations the complaint, oath and warrant may, in the whole, be set at *one dollar*.

3. The service. This is the same as for a civil process.

4. Aids. Where the officer finds it necessary to procure aids, their services may be taxed as is provided in the fee-bill, under the head or article of "*Sheriffs' and Constables' Fees.*"

5. Entry, &c. of a complaint, and trial of the cause.

6. Attendance of the officer at the trial, &c. An allowance for this may be taxed as a fee for keeping the prisoner. See under the same head or article of "*Sheriffs' and Constables' Fees.*"

7. Witnesses. The same as in civil causes.

From these particulars then a Bill of Cost in a criminal cause may be made up as follows, viz.

		Dols.	*Cts.*
Complaint, oath, warrant,		1	0
Service,	30		
Travel (say) 4 miles at 4 cents,	16	0	76
Summoning 3 witnesses,	30		
Two Aids, 3 hours each,		0	50
Entry, &c.	75		
Trial, where there is one,	50	1	25
Officer's attendance, (say)		0	30
Three witnesses, at 33 cents each,		0	99
Their travel 8 miles each, at 4 cents a mile,		0	96
		5	76

FINES.

The following is part of a Law, passed March 6, 1792.

IN order to increase the fund for the payment of costs, and to promote the convenience of Justices of the Peace, by enabling them to settle their accounts with the county treasurer, instead of the treasurer of the Commonwealth,

Be it further enacted, That every Justice of the Peace, be and he hereby is directed to pay all fines and forfeitures by him already received, or that he may hereafter receive upon convictions and sentences before himself, as well those which accrue to the Commonwealth, as those which accrue to the county, to the treasurer of the county whereof he is Justice of the Peace; and that he render his account, and pay such fines once in every six months from and after the passing of this act; and that such payment shall exempt such Justice of the Peace from all penalties inflicted

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inflicted by law for non-payment of such fines and forfeitures into the treasury of the Commonwealth; and such of said fines as accrue to the Commonwealth shall be appropriated as aforesaid. And if any Justice of the Peace shall neglect to account for, and pay in such fines and forfeitures to the Treasurer of the county whereof he is Justice as aforesaid, he shall forfeit and pay for every such neglect the sum of *ten pounds* to such county treasurer, to be by him recovered as aforesaid, with costs, one half of such forfeiture to his own use, and the other half to the use of the Commonwealth; which half accruing to the Commonwealth shall be appropriated to the payment of the costs, and be accounted for as aforesaid: And it shall be the duty of every county treasurer, from time to time, to call upon the Justices of the Peace within his county, and to require them to account to him for, and pay in such fines and forfeitures; and to prosecute such as shall be delinquent.

FIRE-WOOD.

An Act to prevent Fraud in Fire-Wood, Bark, or Coal, exposed to sale.

SECT. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That all cord-wood, exposed to sale, shall be four feet long, including half of the carf, and the cord being well and close laid together shall measure eight feet in length, four feet in width, and four feet in height.

SECT. 2. *Be it further enacted,* That in each town or district in this Commonwealth, where the inhabitants shall, in town meeting, legally assembled, judge and vote the same to be necessary; and wherein fire-wood or bark is usually sold, the selectmen shall annually, or as occasion may require, appoint one or more suitable persons, and conveniently situated in the town or district, to be measurers of wood and bark there exposed or brought in for sale, and shall give publick notice thereof; which measurer or measurers shall be sworn to the faithful and diligent discharge of their office, and shall receive such fees or allowance for their service as the selectmen shall appoint to be paid by the driver of the wood or bark, and repaid by the buyer, where brought in by land, and by the wharfinger, where brought in by water, and the measurer shall be entitled to his action therefor, accordingly.

SECT. 3. *Be it further enacted,* That if any fire-wood or bark, brought by land into any town or district, for sale, wherein such measurers

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meaſurers ſhall be ſo appointed, ſhall be offered for ſale before the ſame ſhall be meaſured by ſuch meaſurer, and a ticket ſigned by him and delivered to the driver, certifying the quantity of wood the load contains, the name of the driver and the town in which he reſides, ſuch wood or bark ſhall be forfeited; two thirds to the uſe of the poor of the town where offered for ſale, and the other third part thereof to the meaſurer or any other perſon who ſhall proſecute for the ſame: *Provided*, that no perſon ſhall be obliged to meaſure any fire-wood or bark when the quantity ſhall be agreed on by the buyer and ſeller.

SECT. 4. *Be it further enacted*, That if any wharfinger or carter ſhall cart or carry any fire-wood from any wharf or landing place, in any town or diſtrict, (except for the uſe and conſumption of ſuch wharfinger or carter) before the ſame ſhall have been meaſured by ſome meaſurer appointed as aforeſaid, he ſhall forfeit and pay *one dollar* for every load of wood ſo carried off; one moiety thereof to the uſe of the poor of the town where the offence ſhall be committed, and the other moiety to any perſon who ſhall proſecute for the ſame.

SECT. 5. *Be it further enacted*, That all baſkets uſed in meaſuring charcoal, brought into any town or diſtrict, for ſale, ſhall contain two buſhels, and be of the following dimenſions, to wit: Nineteen inches in breadth in every part thereof, and ſeventeen inches and a half deep, meaſuring from the top of the baſket to the higheſt part of the bottom; and that the baſket be well heaped, and alſo be ſealed by the ſealer of the town or diſtrict where the perſon ſo uſing the ſame ſhall uſually inhabit or reſide; and every perſon who ſhall meaſure the charcoal offered for ſale, in any baſket of leſs dimenſions, or not ſealed as aforeſaid, ſhall forfeit and pay for each offence, *fifty cents*, to the uſes mentioned in the fourth ſection aforeſaid, and ſuch baſket ſhall be deſtroyed.

SECT. 6. *Be it further enacted*, That the ſelectmen of any town where coal is uſually ſold ſhall have power to appoint as occaſion may require, ſome ſuitable perſon to ſeize and ſecure all baſkets improved for meaſuring coal that ſhall not be of the dimenſions aforeſaid, and ſealed as aforeſaid; and to proſecute ſuch perſon or perſons as ſhall be guilty of a breach of this act. *Provided* that no perſon ſhall be obliged to meaſure charcoal, when the quantity ſhall be agreed on by the buyer and ſeller.

SECT. 7. *Be it further enacted*, That all the forfeitures aforeſaid may be recovered with coſts of ſuit, by action, bill, plaint, or information, before any court proper to try the ſame.

[This act paſſed *March* 7, 1797.]

An

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An Act in addition to an Act, entitled, "An Act to prevent fraud in Fire-Wood, Bark, or Coal, expoſed to ſale," made and paſſed March 7th, one thouſand ſeven hundred and ninety-ſeven.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That all cord-wood brought in by water into any town or diſtrict, for ſale, ſhall be meaſured by a meaſurer duly appointed and ſworn, as directed in ſaid act; and in order thereto, the wood ſo brought in ſhall be corded and piled by itſelf upon the wharf or land whereon the ſame ſhall be landed, in ranges, making up in height what ſhall be wanting in length; at which time it ſhall be ſo meaſured and a ticket given to the purchaſer, who ſhall be obliged to pay the ſtated fees or allowance for ſuch ſervice, as appointed by the ſelectmen.

SECT. 2. *Be it further enacted,* That every wharfinger, carter or driver, that ſhall cart or carry any fire-wood from any wharf or landing place in any town or diſtrict, ſhall be furniſhed by the owner or ſeller of ſuch wood, with a ticket, certifying the quantity the load contains, and the name of the driver. And if any fire-wood ſhall be carted or carried as aforeſaid, without ſuch ticket accompanying the ſame, or if any driver ſhall refuſe to produce and ſhow ſuch ticket on demand, to any meaſurer duly ſworn as aforeſaid, or his conſent to have the ſame meaſured, or if ſuch ticket ſhall certify a greater quantity of wood than the load contains in the opinion of the meaſurer aforeſaid, after meaſuring the ſame, ſuch wood ſhall be forfeited and ſeized, two thirds to the uſe of the poor of the town where offered for ſale, and the other one third to the meaſurer, or whoever ſhall proſecute for the ſame; to be recovered as the other forfeitures in ſaid act are directed to be recovered. *Provided nevertheleſs,* That nothing herein contained ſhall be conſtrued to extend to any perſon or perſons who ſhall tranſport or cart, or cauſe to be tranſported or carted, from any wharf or landing place, to his or their own dwelling houſes or ſtores, any cord-wood, which he or they ſhall have purchaſed on ſuch wharf or landing place, or ſhall have landed thereon upon his or their own account.

SECT. 3. *Be it further enacted,* That the proviſo in the third ſection, and the proviſo in the ſixth ſection in ſaid act, be and they hereby are repealed. Theſe were, "That no perſon ſhould be obliged or charged to meaſure any fire-wood or bark, when the quantity ſhall be agreed on by the buyer and ſeller.

[This act paſſed *June* 22, 1799.]

FORCIBLE

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FORCIBLE ENTRY, &c.

An Act directing the Proceedings againſt Forcible Entry and Detainer.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That two Juſtices of the Peace, *quorum unus*, ſhall have authority to inquire by a Jury as is herein hereafter directed, as well againſt thoſe who make unlawful and forcible entry into lands or tenements, and with a ſtrong hand detain the ſame, as againſt thoſe who having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the ſame; and if it be found upon ſuch inquiry that an unlawful and forcible entry hath been made, and that the ſame lands or tenements are held and detained with force and a ſtrong hand, or that the ſame after a lawful entry, are held unlawfully and with force and a ſtrong hand, then that ſuch Juſtices ſhall cauſe the party complaining to have reſtitution thereof.

And be it further enacted, That when complaint ſhall be formally made in writing to any two Juſtices of the Peace, *quorum unus*, of any unlawful and forcible entry into any lands or tenements, and detainer as aforeſaid, or of any unlawful and forcible detainer of the ſame, after a peaceable entry, they ſhall make out their warrant under their hands and ſeal, directed to the ſheriff of the ſame county, commanding him in the behalf of the Commonwealth, to cauſe to come before them twelve good and lawful men of the ſame county, each one of whom having freehold lands or tenements of the yearly value of *forty ſhillings*, and they ſhall be empannelled to inquire into the forcible entry or forcible detainer complained of, which warrant ſhall be in the form following, viz.

Commonwealth of Maſſachuſetts,

D———ſſ. To the Sheriff of the county of D.

Greeting.

(L. S.) Whereas complaint is made to us the ſubſcribers, two of the Juſtices of the Peace for and within the county of , *quorum unus*, by E. B of , in the ſame county, gentleman, that E. F. of , yeoman, upon the day of , at aforeſaid, with force and arms, and with a ſtrong hand did unlawfully and forcibly enter into and upon a tract of land of him the ſaid E. B. in aforeſaid, containing acres, bounded as follows, viz. [*or into the meſſuage or tenement of him the ſaid E. B. as the caſe may be*] and him the ſaid E. B. with force and a ſtrong hand as aforeſaid, did expel and unlawfully put out

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out of the poſſeſſion of the ſame, [*or if it is a forcible detainer only, then the entry ſhall be deſcribed and the detainer inſerted as follows*] and him the ſaid E. B. does unlawfully, unjuſtly, and with a ſtrong hand, deforce and ſtill keep out of the poſſeſſion of the ſame.

You are therefore commanded, in behalf of the ſaid Commonwealth, to cauſe to come before us upon the day of , at in the ſaid county, twelve good and lawful men of your county, each one of whom having a freehold of the yearly value of *forty ſhillings*, to be empannelled and ſworn to inquire into the forcible entry and detainer [*or the detainer*] afore deſcribed.

Given under our hands and ſeals the day of , in the year of our Lord

R. S. }
N. O. } Juſtices of the Peace, *quorum unus.*

And the ſaid Juſtices ſhall make out their ſummons to the party complained againſt, in form following, viz

Commonwealth of Maſſachuſetts.

D———ff. To the Sheriff of the county of D. Greeting.

We command you, that you ſummon E. F. of , (L.S.) to appear before the ſubſcribers, two of our Juſtices of the Peace, within and for our ſaid county of D *quorus unus*, at a place called , in in the ſaid county, at o'clock in the noon; then and there to anſwer to and defend againſt the complaint of E. B. to them exhibited, wherein he complains that , [*here the complaint ſhall be recited*] and you are to make a return of this writ with your doings therein, unto our ſaid Juſtices, upon or before the ſaid day .

Witneſs our ſaid Juſtices, the day of , in the year of our Lord .

R. S.
N. O.

Which ſummons ſhall be ſerved upon the party complained againſt, or a copy thereof left at his uſual place of abode, ſeven-days excluſively before the day appointed by the Juſtices for the trial; and if after the ſervice of ſuch ſummons the party does not appear to defend, the Juſtices ſhall proceed to the inquiry in the ſame manner as if he was preſent; and when the Jury ſhall appear, the Juſtices ſhall lay before the Jury the exhibited complaint; and ſhall adminiſter the following oath to them, viz.

Foreman's Oath.

"*You, as Foreman of this Jury, do ſolemnly ſwear, that you will well and truly try whether the complaint of E. B now laid before you, is true according to your evidence.* So help you GOD,"

The

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The other Juror's Oath.

"*The ſame Oath which your Foreman hath taken on his part, you and every of you ſhall well and truly obſerve and keep.*

So help you GOD."

And if the Jury ſhall find the ſame true, then they ſhall return their verdict in form following:

At a Court of Inquiry, held before R. S and N. O. Eſquires, two of the Juſtices of the Peace, within and for the ſaid county of D. *quorum unus*, at in the ſaid county of D upon the day of , in the year of our Lord , the Jury upon their oaths do find, that the lands or tenements in aforeſaid, bounded (*or* deſcribed) as follows: as in the complaint, upon the day of , in the year of our Lord , was in the lawful and rightful poſſeſſion of the ſaid E. B and that the ſaid E. F. did upon the ſame day unlawfully, with force and arms, and with a ſtrong hand, enter forcibly upon the ſame (*or* being lawfully upon the ſame, did unlawfully with force and a ſtrong hand) expel and drive out the ſaid E. B. and that he doth ſtill continue wrongfully to detain the poſſeſſion from him the ſaid E. B. Wherefore the Jury find upon their oaths aforeſaid, that the ſaid E. B. ought to have reſtitution thereof without delay.

And if by accident or challenge there ſhall happen not to be a full Jury, the ſheriff ſhall fill the panel *de talibus circumſtantibus*, as in other caſes. And if the Jury, after a full hearing of the cauſe, ſhall find the complaint laid before them ſupported by evidence, they ſhall all ſign their verdict in form aforeſaid, otherwiſe the defendant ſhall be allowed his legal coſt, and have his execution therefor.

And it is further enacted, That if the Jury ſhall return their verdict, ſigned by the whole panel, that the complaint is ſupported, the Juſtices ſhall enter up judgment for the complainant to have reſtitution of the premiſes, and ſhall award their writ of reſtitution accordingly: And no appeal ſhall be allowed from the judgment of the Juſtices.

Provided nevertheleſs, That the proceedings may be removed by *certiorari*, into the Supreme Judicial Court holden in ſuch county, and be there quaſhed for irregularity, if any ſuch there may be, nor ſhall ſuch judgment be a bar to any after action brought by either party. Which writ of reſtitution ſhall be in form following:

Commonwealth of *Maſſachuſetts*.

D———ſſ. To the Sheriff of our county of D.

Greeting.

(L.S.) Whereas at a Court of Inquiry of forcible entry and detainer, held at , in our county of D. upon the day of , in the year of our Lord , before R. S. and N. O.

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N. O Eſquires, two Juſtices of the Peace for our ſaid county of D. *quorum unus*, the Jurors empannelled and ſworn by our ſaid Juſtices, did return their verdict in writing, ſigned by each of them, that E. B. was upon the day of in the rightful poſſeſſion of a certain meſſuage or tract of land, (as in the verdict returned) and that, &c. [*as in the verdict*] whereupon it was conſidered by our ſaid Juſtices, that the ſaid E. B. ſhould have reſtitution of the ſame.

We therefore command you, that, taking with you the force of the county, if neceſſary, you cauſe the ſaid E. F. to be forthwith removed from the premiſes, and the ſaid E. B. to have the peaceable reſtitution of the ſame; and alſo that you levy of the goods, chattels or lands of the ſaid E F. the ſum of , being coſts taxed againſt him on the trial aforeſaid, together with *one ſhilling* and *four pence* more for this writ and your own fees; and for want of ſuch goods, chattels or lands of the ſaid E. F. by you found, you are commanded to take the body of the ſaid E F. and him commit to our gaol in , in our ſaid county of D. there to remain until he ſhall pay the ſum aforeſaid, together with all fees ariſing on the ſervice of this writ, or until he is delivered by order of law, and make return of this writ with your doings therein, within twenty days next coming.

Witneſs our ſaid Juſtices, at aforeſaid, the day of , in the year of our Lord .

R. S.
N. O.

Provided nevertheleſs, That this act ſhall not extend unto any perſon who hath had the occupation or been in the quiet poſſeſſion of any lands or tenements by the ſpace of three whole years together next before, and whoſe eſtate therein is not ended or determined.

[This act paſſed *June* 30, 1784.]

☞ To the Forms contained in the foregoing act, I think proper to add the following.

Complaint of Forcible Entry and Detainer.

To S. T and R. S. two of the Juſtices of the Peace within and for the county of D *quorum unus*.

Complains A. B of in ſaid county, that E. F. of , upon the day of , at aforeſaid, with force and arms, and with a ſtrong hand, did unlawfully and forcibly enter into and upon a tract of land of him the ſaid A. B. in aforeſaid, containing acres, bounded as follows, viz (*or* into the meſſuage or tenement of him the ſaid A. B. *as the caſe may be*) and him the ſaid A. B. with force and a ſtrong hand as aforeſaid, did expel and unlawfully put out of the poſſeſſion of the ſame, and him the ſaid A. B. does unlawfully, unjuſtly and with a ſtrong hand,

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hand, deforce and ſtill keep out of the poſſeſſion of the ſame. Your complainant therefore prays that your honours would cauſe a Jury to come before you to inquire into the ſame, as the law in ſuch caſes directs.

Dated &c. A. B.

Complaint of a Forcible Detainer only.

To S. T. and R. S. two of the Juſtices of the Peace within and for the county of D. *quorum unus.*

Complains A. B. of in ſaid county, that E. F. of , upon the day of , at aforeſaid, did with the conſent of the ſaid A. B (*or* by agreement with the ſaid A. B.—*or* &c. *as the caſe may be*) lawfully enter into and upon a tract of land of him the ſaid A. B. in aforeſaid, containing acres, bounded as follows, viz. (*or* into the meſſuage or tenement of him the ſaid A. B. *as the caſe may be*) and the ſame unlawfully held until , &c. ſince which time he hath unlawfully held the ſame, and him the ſaid A. B. does unlawfully, unjuſtly and with a ſtrong hand, deforce and ſtill keep out of the poſſeſſion of the ſame. Your complainant therefore prays that you would cauſe a Jury to come before you to inquire into the ſame, as the law directs.

Dated, &c. A. B.

Record of a Judgment.

D———ff.

At a Court of Inquiry, held before us the ſubſcribers, two of the Juſtices of the Peace, within and for the ſaid county of D. *quorum unus*, at in ſaid county, upon the day of , A. D.

A. B. of , having complained to us againſt E. F. of , that, &c. [*here recite the complaint*] and the ſaid E. F. having been thereupon duly ſummoned to appear before us at this time, to anſwer to ſaid complaint. The parties now appear, and the ſaid E. F. comes and defends, &c. and ſaith [*here inſert the plea.*] Whereupon the cauſe is committed to a Jury duly called, empannelled and ſworn, according to law, to inquire into the ſame, who, after a full hearing thereof, return their verdict as follows, viz. [*here inſert the Jury's verdict.*]

It is therefore conſidered by us the ſaid Juſtices, that the ſaid A. B. have reſtitution of the ſaid [*premiſes*] and that he the ſaid A. B. recover againſt the ſaid E. F. coſts of court, taxed at

Another,

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Another, when the Defendant does not appear.

D——— ss.

At a Court of Inquiry, held before us the subscribers, two of the Justices of the Peace within and for the said county of D. *quorum unus*, at in said county, upon the day of , A. D.

A. B. of , having complained to us against E. F. of , that, &c. [*here recite the complaint*] the said E. F. hath been thereupon duly summoned to appear before us at this time, to answer to said complaint. And now the complainant appears to prosecute the same, but the said E. F. although solemnly called to come into court, does not appear, but makes default. The cause however is agreeably to law committed to a Jury duly called, empannelled, and sworn to inquire into the same, who after a full hearing thereof, return their verdict as follows, viz. [*here insert the Jury's verdict.*]

It is therefore considered by us the said Justices, that the said A. B. have restitution of the said [*premises*] and that he the said A. B. recover against the said E. F. costs of court, taxed at .

If the Jury find that the complaint is not supported, say, after reciting their verdict, It is therefore considered by us the said Justices, that the said E. F. recover against the said A. B. costs of court, taxed at

FORNICATION.

An Act for the Punishment of Fornication, and for the Maintenance of Bastard Children.

BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That if any man commit fornication with any single woman, upon due conviction thereof, he shall be fined to the use of the county where the crime may be committed, not exceeding the sum of *five pounds*, nor less than *thirty shillings*; and if he declare himself unable, or shall neglect for the space of twenty-four hours after passing the sentence, to pay the fine and costs, then he shall be whipped not exceeding ten stripes, at the discretion of the Justices of the Sessions before whom the matter shall be tried; and the woman so offending, upon due conviction thereof, shall be fined to the use of the county where the crime may be committed, not exceeding the sum of *three pounds*, nor less than *six shillings*; and if she shall declare herself unable, or shall neglect for the space of twenty-four hours to pay the fine and costs, then for the first offence she shall be committed to prison, or to the house of correction, there to remain not more than ten days, nor less than twenty-four hours; and for each offence after the first, she shall pay a fine not exceeding

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ing *five pounds*, nor less than *twelve shillings*; and if she shall declare herself unable, or shall neglect for the space of twenty-four hours to pay the fine and costs, then she shall be committed to prison, or to the house of correction, there to remain not more than thirty days, nor less than forty-eight hours.

Provided nevertheless, If any woman, guilty of the crime aforesaid, shall appear before any Justice of the Peace within the county where such offence may be committed, and confess herself to be guilty as aforesaid, and offer to pay into the hands of the said Justice, for the first offence, the sum of *six shillings*, and for any offence after the first, the sum of *twelve shillings*, it shall be the duty of such Justice to receive said fine, or to bind her over to the next Court of General Sessions of the Peace to be holden within and for said county, at his discretion; and a certificate of the payment of the said fine, signed by the same justice, and filed in the clerk's office of the Court of General Sessions of the Peace, shall be a full bar to any process against her for the same offence, unless such process be commenced previous to the filing of the said certificate in the clerk's office as aforesaid.

And be it further enacted by the authority aforesaid, That whenever any woman who hath been delivered of a bastard child, or being pregnant with a child, which if born alive may be a bastard, shall accuse any man of being the father thereof, before any Justice of the Peace, upon examination on oath, and being put upon the discovery of the truth respecting the same accusation in the time of her travail, shall thereupon accuse the same person of being the father of the child of which she is about to be delivered, and shall continue constant in such accusation and shall prosecute him as the father of such child before the Court of General Sessions of the Peace, in the manner herein after prescribed, (in which prosecution she shall be admitted as a competent witness, and her credibility be left to the Jury) he shall be adjudged the reputed father of such child, notwithstanding his denial, and stand charged with the maintenance thereof with the assistance of the mother, as the justices of the same court shall order; and shall give security to perform the said order, and to save the town or place, which might be otherwise chargeable with the maintenance of such child, free from charge for its maintenance; and may be committed to prison until he find sureties for the same, unless the pleas and proofs made and produced on the behalf of the man so accused, and other circumstances be such as the Jury, by whom the issue, whether he is guilty or not guilty, shall be tried, shall find him not guilty; in which case the Justices of the said court shall acquit him thereof; and the verdict of the jury of the same court, whether guilty or not guilty, shall be final respecting such issue. *Provided*, That no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime which would by law disqualify her from being a witness in any other cause. And every Justice of the Peace,

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Peace, to whom complaint is made by any woman, that ſhe hath been delivered, or is pregnant as aforeſaid, and deſires a proſecution againſt the man whom ſhe accuſes of being the father of the child, the Juſtice ſhall then proceed to take her accuſation and examination in writing, under oath, reſpecting the man ſo accuſed, and the time and place where ſhe was begotten with child, with ſuch other circumſtances as he ſhall judge neceſſary, for the diſcovery of the truth of ſuch accuſation; which examination ſhall be given in evidence on the trial of the iſſue; and at his diſcretion may bind him that is ſo accuſed to the next General Seſſions of the Peace, with ſufficient ſurety, or ſureties, to anſwer to ſuch accuſation, and abide the order of court thereon. And if the woman be not then delivered, or be unable perſonally to attend the ſaid court, may order the continuance or renewal of his and her bond, that they may be forth coming at the next Court of General Seſſions of the Peace after the birth of the child; and the continuance of ſuch bonds aforeſaid to the next court of General Seſſions of the Peace, entered thereon by order of the ſaid court, (unleſs the ſurety or ſureties object thereto) ſhall have the ſame force and effect as a recognizance taken in court for the next term.

And be it further enacted by the authority aforeſaid, That all laws heretofore in force reſpecting the ſubject matter of this act, be and they are hereby declared to be repealed; touching all caſes that may happen after the paſſing of this act.

[This act paſſed *March* 15, 1786.]

FORMS.

I.

Certificate of a Juſtice, when a Woman pays a Fine for the Crime of Fornication.

C——ſſ. I, the ſubſcriber, one of the Juſtices of the Peace, within and for the ſaid County of C. do hereby certify that A. B. of, &c. ſingle woman, this day came before me and confeſſed herſelf to be guilty of the crime of Fornication, having committed the ſaid offence on or about the day of laſt, at, &c. and hath thereupon paid into my hands the ſum of ſhillings, as a fine for the ſame, being the offence.

Given under my hand, this day of , A. D. 18
S. T.

II.

Accuſation of a woman who hath been delivered of a Baſtard Child, or is pregnant with one, which is likely to become ſo.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of C.

Complains, A. B. of , That on the day of laſt, ſhe was delivered of a baſtard child, (*or*, that ſhe is now

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now pregnant with a child, which, if born alive, may be a baſtard) and that C. D. of , is the father of ſaid child: She therefore deſires a proſecution againſt the ſaid C. D. and that he may be held to anſwer this accuſation as the law in ſuch caſes directs. A. B.

Dated, &c.

C——ſſ. 18 The above named A. B. perſonally appeared and made oath to the truth of the above accuſation by her ſigned. Before me,

S. T. Juſtice of the Peace.

III.

Examination.

The examination of A. B. of , ſingle woman, who ſaith upon oath, That on the day of laſt, ſhe was delivered of a baſtard child, (*or*, that ſhe is now pregnant with a child, which, if born alive, may be a baſtard) and that C. D. of is the father of ſaid child, he having begotten the ſame on the day of , at

That, &c. [*Here may be inſerted any other circumſtances which the Juſtice ſhall judge neceſſary for the diſcovery of the truth of her accuſation.*]

C——ſſ. Taken and ſworn to before me the ſubſcriber, one of the Juſtices of the Peace, for the ſaid county of C. this day of , A. D. 18 S. T.

The two foregoing Forms may be combined as follows, viz.

Complaint or Accuſation and Examination of a Woman who hath been delivered of a baſtard child, or is pregnant with a child which is likely to be born a baſtard.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of C.

Complains upon oath, A. B. of , and ſays, That on the day of , ſhe was delivered of a baſtard child, (*or*, that ſhe is now pregnant with a child, which, if born alive, may be a baſtard) and that C. D. of , is the father of ſaid child, he having begotten the ſame upon her body, on the day of , at [*Here particular circumſtances may be expreſſed.*] She therefore deſires a proſecution againſt the ſaid C. D and that he may be apprehended and held to anſwer this accuſation, as the law in ſuch caſe directs. A. B.

Dated, &c.

C——ſſ. Taken and ſworn to before me, the ſubſcriber, one of the Juſtices of the Peace, within and for ſaid county, this day of , A. D. S. T.

IV.

Warrant thereon.

C——ſſ. To the Sheriff, &c. Greeting.

Whereas A. B. of, &c. ſingle woman, hath this day made complaint

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plaint upon oath to me, the ſubſcriber, one of the Juſtices of the Peace, for the ſaid county of C. That on the day of laſt, ſhe was delivered of a baſtard child, (*or*, that ſhe is now pregnant with a child, which if born alive may be a baſtard) and that C. D. of, &c. is the father of ſaid child, and hath therefore deſired a proſecution againſt him.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith to apprehend the ſaid C. D. and bring him before me or ſome other of the Juſtices of the Peace, within and for the county aforeſaid, that he may be bound with ſufficient ſurety or ſureties, to anſwer ſuch accuſation at the next Court of General Seſſions of the Peace, which is to be holden at , within and for the county aforeſaid, and to abide the order of ſaid Court thereon.

Given under my hand and ſeal, this day of , A. D. 18

S. T.

V.

Recognizance.

C —— ſſ. Memorandum.

That on the day of , *Anno Domini, One Thouſand Eight Hundred and* , perſonally appeared before me, S. T. Eſq. one of the Juſtices of the Peace for the ſaid county of C , C. D. of, &c. A. L. of, &c. (and B. S. of, &c.) and acknowledged themſelves to be ſeverally indebted to A. B of , ſingle woman, in the reſpective ſums following, viz. the ſaid C. D. as principal, in the ſum of pounds, and the ſaid A. L. as ſurety, (*or* ſaid A. L. and B. S. as ſureties) in the ſum of each, to be levied on their goods or chattels, lands or tenements, and in want thereof, upon their bodies, to the uſe of the ſaid A. B. if default be made in the performance of the condition here underwritten.

The condition of the above written Recognizance is ſuch, That if the ſaid C. D. ſhall perſonally appear before the Juſtices of the Court of General Seſſions of the Peace, for the ſaid county of C. which is to be holden at P. in the ſaid county, on the Tueſday of next, to anſwer to the accuſation of the ſaid A. B. taken before me, the ſaid Juſtice, on the day of , wherein the ſaid A. B charges the ſaid C. D of being the father of (a child with which ſhe was then pregnant, and which hath been ſince born a baſtard; *Or*, with which ſhe was then and is now pregnant, and which is likely to be born a baſtard: *Or, as the caſe may be,*) a baſtard child of which ſhe was delivered on the day of laſt, and ſhall abide the order of Court thereon. Then the above written obligation to be void and of none effect, otherwiſe to abide in full force and virtue.

S. T.

GAMING.

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GAMING.

An Act to prevent Gaming for Money or other Property.

WHEREAS the practice of gaming for money or other property is not only injurious in a high degree to the individuals concerned therein, but alſo in its tendency ruinous and deſtructive to the State.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That all notes, bills, bonds, judgments, mortgages or other ſecurities or conveyances whatſoever, given, granted, drawn, entered into, or executed by any perſon or perſons whatſoever, where the whole, or any part of the conſideration of ſuch conveyances or ſecurities ſhall be for any money or other valuable thing whatſoever, won by gaming or playing at cards, dice or any other game or games whatſoever, or by betting on the ſide or hands of any perſon gaming, or for the reimburſing, or repaying any money knowingly lent, or advanced for any gaming or betting, or lent and advanced at the time and place of ſuch play, to any perſon or perſons, ſo gaming or betting, or that ſhall, during ſuch play, ſo play or bett, ſhall be void and of no effect; and that where ſuch mortgages, ſecurities or other conveyances ſhall be of lands, tenements or hereditaments, or ſhall be ſuch as incumber or affect the ſame; ſuch mortgages, ſecurities or other conveyance, ſhall enure, and be to the ſole uſe and benefit of ſuch perſon or perſons as ſhould, or might have, or be entitled to ſuch lands, tenements or hereditaments, in caſe the ſaid grantor or grantors thereof, or the perſon or perſons ſo incumbering the ſame, had been naturally dead; and that all grants or conveyances to be made for the preventing of ſuch lands, tenements or hereditaments from coming to, or devolv upon, ſuch perſon or perſons, hereby intended to enjoy the ſame as aforeſaid, ſhall be deemed fraudulent, void, and of no effect, or purpoſe whatever.

SECT. 2. *And be it further enacted,* That any perſon or perſons, who ſhall at any time or ſitting, by playing at cards, dice, or any other game or games whatſoever, or by betting on the ſides or hands of ſuch as do game, loſe to any one or more perſon or perſons, ſo playing or betting, any ſum or ſums of money, or any other valuable thing whatſoever, and ſhall pay or deliver the ſame, or any part thereof, the perſon or perſons ſo loſing and paying or delivering the ſame, ſhall be at liberty to ſue for and recover the money or goods ſo loſt and paid or delivered, or any part thereof, or damages to the full value of the ſame, from the reſpective winner or winners thereof, with coſts of ſuit, by action to be commenced within three months next after the loſing, paying or delivering the ſame, in which it ſhall be ſufficient for the plaintiff to

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allege, in an action of assumpsit, that the defendant had received to the plaintiff's use the money so lost and paid; and in an action of trover for the goods so lost and delivered, that they came to the hands of the defendant, without mentioning in the declaration the particular manner and occasion of the goods or monies being lost; and in case the person or persons who shall lose such money or other thing as aforesaid, shall not within the time aforesaid, really and truly, without coven or collusion, sue and with effect prosecute for the money or other thing so by him or them lost and paid or delivered as aforesaid, it shall and may be lawful to and for any person or persons to sue for and recover treble the value of the money, goods or chattels, with full costs of suit by action of debt upon this statute, against such winner or winners as aforesaid; one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the poor of the town where the offence shall be committed.

Sect. 3. *And be it further enacted*, That any person who shall be convicted on an indictment of the Grand Jury, before the Court of General Sessions of the Peace, or the Supreme Judicial Court, of winning at any one time or sitting, of any person or persons, by gaming or betting as aforesaid, in money, goods or chattels, to the value of *twenty shillings*, or upwards, and of receiving the same or security therefor, shall, besides forfeiting double the amount or value of the money, goods or chattels so won and received, to the poor of the town where the offence is committed, be adjudged incapable of holding, keeping or sustaining, directly or indirectly, any office of honour or profit in this Commonwealth, for the term of twelve months from the time of such conviction: *Provided always*, such indictment be found within eighteen months next after the offence committed.

Sect. 4. *And be it further enacted*, That in suits hereafter brought by the person losing money, goods or chattels against the person winning the same, when it shall appear from the declaration, that the goods said to be lost came to the hands of the defendant, by gaming, or the money he had received was by gaming, then, and in such case, if the plaintiff shall offer to make oath, and if required by the court where the trial is, shall actually swear to the losing the money, goods or chattels by gaming with the defendant at the time and place alleged, judgment shall be rendered for the plaintiff to recover damage, to the amount of the goods or money the defendant has received of the plaintiff by gaming, with costs of suit, unless the defendant will swear that he did not receive of the plaintiff the money, goods or chattels for which he is sued, or any part of them, by gaming; and when the defendant discharges himself on oath as aforesaid, he shall recover of the plaintiff his reasonable costs.

Provided nevertheless, That nothing in this Act shall be so construed as to prevent the supporting and proving any declarations

on

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on the aforesaid actions, in the same manner as other declarations are proved; but it shall be considered as optional with the plaintiff either to proceed in proving his declaration in the way specially provided in this act, or in the same way other declarations are proved; any thing herein to the contrary notwithstanding.

SECT. 5. *And be it further enacted*, That if any person shall play at cards, dice or billiards, or with any other implements used in gaming, in any tavern or house of entertainment, or place licensed for retailing spirituous liquors, or in any of the out-houses, yards, gardens, or appendages of the same, or shall, in any of the houses or licensed places aforesaid, expose to view any of the implements aforesaid, or shall be seen sitting at any table therein with any of the said implements before him, and shall be convicted thereof before any Justice of the Peace, or any Court of General Sessions of the Peace, on the presentment of a Grand Jury, the person so offending shall forfeit and pay a sum not less than *five*, nor more than *sixty shillings*, to the use of the poor of the town where the offence shall be committed.

[This act passed *March* 4, 1786]

An Act more effectually to prevent the pernicious practice of Gaming.

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That no innholder, tavern-keeper, victualler or person licensed as a retailer of spirituous liquors, shall keep, or suffer to be kept, any table for the purpose of playing at billiards, in any house, yard, garden or other appendages to him or her belonging, or by him or her occupied or improved. And if any innholder, tavern-keeper, victualler or retailer of spirituous liquors, licensed as aforesaid, shall keep, or suffer to be kept, in any house, building, yard, garden or other appendages to him or her belonging, or by him or her occupied or improved, any such table for the purpose of playing at billiards, or shall suffer or wittingly and willingly allow any person to play therein at billiards, cards, dice or any other unlawful game, he or she so offending, upon conviction thereof on an indictment of the Grand Jury, before the Court of General Sessions of the Peace, or the Supreme Judicial Court, shall for each and every such offence, forfeit and pay the sum of *fifty dollars*, to the use of the town where such offence shall be committed, and shall be deprived of his or her license for the remainder of the year, and shall not obtain a renewal thereof for the space of three years next ensuing.

SECT. 2. *Be it further enacted*, That if any person not licensed as an innholder, tavern keeper, victualler, or retailer of spirituous liquors, shall keep or suffer to be kept in any house, building, yard, garden or other appendages thereof, by him or her actually occupied

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occupied or improved, any tables for the purpose of playing at billiards for hire, gain or reward, or shall for hire, gain or reward allow and suffer persons to resort to the same for the purpose of playing at billiards, cards or dice, or at any other unlawful game, such person so offending, on conviction thereof as aforesaid, shall for each and every such offence, forfeit and pay the sum of *fifty dollars*, to the use of the town where the offence shall be committed, and further shall be obliged to recognize with sufficient surety or sureties, in a reasonable sum, for his or her good behaviour, and particularly that he or she will not be guilty of a breach of this act for the space of three years next ensuing.

SECT. 3. *Be it further enacted*, That if any person shall play at billiards, at any table kept or made use of for the purpose aforesaid, he shall, on conviction thereof, forfeit and pay a fine of *six dollars* for each and every such offence, to be recovered by action or complaint before any Justice of the Peace, in and for the county where the offence shall be committed, to the use of him or them who may prosecute or sue for the same.

SECT. 4. *And be it further enacted*, That it shall be the duty of all Selectmen, Sheriffs, Deputy Sheriffs, Constables, Tythingmen and Grand Jurors to complain of any breaches of this act.

[This act passed *June* 27, 1799.]

GUARDIANS.

WHEN a minor about the age of fourteen years, living more than ten miles distance from the Judge of Probate's dwelling house, shall choose a guardian, such minor may have that choice certified to the Judge, by any Justice of the Peace in the same county, or by the Town Clerk, if no Justice shall dwell in such town, which choice, so certified, shall be deemed as good and valid as if done in the said Judge's presence.

FORM

Of the choice of a Guardian and a Certificate thereon.

Know all men by these presents, That I , a minor, (*or*, we and , minors) about the age of fourteen years, of late of , &c. deceased, have named, ordained and made, and by these presents do put and constitute to be guardian, with full power and authority for , in name, and to use, to ask, demand, sue for, recover, receive and take into possession and custody, all and singular such part and portion of estate, which is or may be coming to as heir to the estate of said father, or which by any other way or means whatsoever doth of right appertain or belong

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belong to , and to manage, employ and improve the ſame for beſt advantage and profit during minority, and to do all and whatever may be neceſſary in and about the premiſes, as fully and effectually to all intents and purpoſes as might or could do perſonally, being of full age; praying that may be accordingly accepted into the ſame power and truſt.

In teſtimony whereof, have hereunto ſet hand and ſeal, this day of , A. D. 18

Sealed and delivered,
in preſence of

D——ff.

To the Honorable W. G. Eſq. Judge of the Probate of Wills, &c. in and for ſaid county.

This certifies that the minor whoſe name is (*or* minors whoſe names are) ſubſcribed to the foregoing inſtrument, living more than ten miles diſtance from your Honour's dwelling houſe, this day came before me the ſubſcriber, one of the Juſtices of the Peace, within and for the county aforeſaid, and made choice of to be guardian, as in and by the ſaid inſtrument appears.

Given under my hand this day , A. D. 18

S. T.

GUIDE POSTS.

An Act making proviſion for the erecting Guide Poſts upon Publick Roads.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That on or before the firſt day of *September* next, it ſhall be the duty of the inhabitants of the ſeveral towns and diſtricts in this Commonwealth, and alſo ſuch unincorporated plantations as now are aſſeſſed in any publick tax, to provide, erect and keep in repair ſuch guide poſts, upon all publick roads, at ſuch places and in ſuch manner as is hereafter in this act provided.

And be it further enacted by the authority aforeſaid, That the ſelectmen of the ſeveral towns and diſtricts, and the aſſeſſors of all unincorporated plantations, aſſeſſed in any publick tax, in this Commonwealth, be and they hereby are authoriſed and required from time to time to fix and determine upon ſuch places at the corners and angles of all roads in the ſeveral towns, diſtricts and plantations aforeſaid, at which the ſaid guide poſts ſhall be erected and kept, as in their judgment ſhall be found neceſſary and convenient, and ſhall cauſe a fair record thereof to be entered

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entered and kept among the records of the said towns, districts or plantations.

And it it further enacted by the authority aforesaid, That the guide posts, to be erected and kept in pursuance of this act, shall be constructed in manner following; that is to say, there shall be erected at the several corners or angles of the roads aforesaid, at such places as shall be ordered by the selectmen of towns and districts, or assessors of the plantations aforesaid, a substantial post of not less than eight feet in height; upon the upper end of which shall be placed a board or boards, upon each of which boards shall be plainly and legibly painted the name of the next town, with such other noted town or place as may be judged most expedient for the direction of travellers, to which each of the roads may lead, together with the distance or number of miles to the same; and also the figure of a hand with the fore finger thereof pointing towards the town or place to which the said roads may lead: *Provided nevertheless*, That the inhabitants of the several towns, districts and plantations aforesaid, duly qualified to vote in town or plantation affairs, may, if they judge fit, on or before the first Monday in *April* next, and annually afterwards, agree upon some suitable substitute in the room of said guide posts, and appoint any proper person or persons to superintend the erecting the same.

And be it further enacted by the authority aforesaid, That if the inhabitants of any of the towns, districts or plantations aforesaid shall neglect or refuse to erect and maintain said guide posts, in such places and in such manner as is herein provided, the said inhabitants shall forfeit and pay to the use of the Commonwealth *twenty shillings* for every month which they shall so neglect or refuse: And if the selectmen of the several towns and districts, or assessors of the several plantations aforesaid, shall neglect or refuse to fix and determine upon any places in the towns, districts and plantations aforesaid, at which the said guide posts shall be erected and kept by the time in this act set and limited, the said selectmen or assessors shall forfeit and pay to the use of the Commonwealth *twenty shillings* for every month which they shall so neglect or refuse; said penalties and forfeitures to be recovered by indictment of the Grand Jury in the county where the offence may be committed.

And be it further enacted by the authority aforesaid, That if any person shall injure, mar or deface any guide post, or its substitute agreed upon as aforesaid, or board which shall be set up, as is in this act provided, and be convicted thereof before any Justice of the Peace within this Commonwealth, (who is hereby empowered to try the same) such person, so convicted, shall forfeit a sum not more than *forty shillings*, nor less than *twenty shillings*, one half to the complainant, and the other half to the use of the town, district or plantation in which such guide post or its substitute so injured,

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injured, marred or defaced, was set up, and shall pay all costs of the prosecution.

[This act passed *February* 28, 1795.]

HAWKERS, &c.

An Act against Hawkers, Pedlars and Petty Chapmen.

WHEREAS inconveniences arise to trade by hawkers, pedlars and petty chapmen, passing to, from and through the country, to vend goods, wares and merchandize:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That every hawker, pedlar, petty chapman, or other person going from town to town on foot, or with a horse or horses, or otherwise carrying to sell, or exposing to sale, any wares, goods or merchandise, within this Commonwealth, shall forfeit a sum not exceeding *four pounds*, nor less than *twenty shillings*; also one quarter part of all such goods, wares or merchandise by him or them exposed to sale, or so conveyed or transported as aforesaid, to him or them that shall prosecute therefor, by information or complaint before the Court of General Sessions of the Peace in the same county.

Provided nevertheless, That nothing herein shall prohibit or hinder any person who is the real worker or maker of any goods or wares, or his servants or agents, from carrying abroad, exposing to sale or selling any of the said goods or wares of his own making, or other articles manufactured within this Commonwealth, in any fair, market or elsewhere, or from selling any fish, fruits or provisions; or any tinker, cooper, glazier or mender, or other person, from going about and carrying with him proper materials for mending the things usually made or mended in the exercise of his trade. And any Justice of the Peace, upon complaint to him made of any such offense may arrest or summon before him the person or persons complained against, and order him or them to recognize with sufficient surety or sureties, to appear and answer the complaint or information that may be exhibited against him or them, before the next Court of Sessions of the Peace in the county where the offence is said to be committed; and for want of sufficient surety, to commit such offender or offenders to the common gaol of the county; and also to secure and detain all such goods, wares and merchandise until the trial. *Provided*, The complainant will enter into a recognizance with surety before the same Justice to the supposed offender, in a sufficient sum to pay cost, in case the complainant shall fail of prosecuting or convicting the offender; and the Court of General Sessions of the Peace may assess costs upon the trial for or against the complainant, as the case may

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may require; and all taverners, ale houſe keepers, common victuallers or retailers, that ſhall knowingly entertain any hawker, pedlar or petty chapman, or other trading perſon aforeſaid, for the ſpace of twelve hours, ſhall forfeit and pay the ſum of *twenty ſhillings*, for every ſix hours after the firſt twelve, (unleſs the departure of ſuch hawker, pedlar or petty chapman ſhall be prevented by means of ſickneſs, or any other unavoidable neceſſity) to him or them who will proſecute and ſue therefor by action of debt.

[This act paſſed *June* 9, 1785.]

An Act to explain an act entitled "An Act againſt Hawkers, Pedlars and Petty Chapmen."

Whereas doubts have ariſen whether the ſaid act extends to the hawkers and pedlars of indigo and feathers, as the ſame are the growth and production of the United States:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That every hawker, pedlar or petty chapman, or other perſon, who ſhall, from and after the firſt day of *Auguſt* next, go from town to town, on foot or with a horſe or horſes, or otherwiſe carrying to ſell, or expoſing to ſale, any indigo or feathers, ſhall incur the penalties and forfeitures, and ſhall and may be proſecuted, convicted and fined in the way and manner, and by the proceſſes, which are pointed out in the act aforeſaid, paſſed on the ninth day of *June*, one thouſand ſeven hundred and eighty-five. And all perſons, whether taverners, ale houſe keepers, common victuallers or retailers, who ſhall, from and after the firſt day of *Auguſt* next, knowingly harbour and entertain any ſuch hawker, pedlar or petty chapman of indigo or feathers, ſhall incur the ſame penalties and forfeitures, to be recovered in the ſame way and manner as is provided in the act aforeſaid, againſt perſons who ſhall entertain hawkers, pedlars and petty chapmen.

SECT. 2. *Be it further enacted*, That the Secretary be, and he hereby is directed forthwith to cauſe this act to be printed in the newſpaper printed by the Printers of the General Court in the town of Boſton.

[This act paſſed *June* 18, 1799.]

FORM

Of a Complaint againſt a Hawker or Pedlar.

D——ſſ.

To S. T. Eſq. one of the Juſtices of the peace for ſaid county,

Complains, (*) A. B. of , &c. that C. D. now reſident in in ſaid county, within days laſt paſt hath been going from town to town, viz. in the town of and , on foot (or with a horſe or horſes, *or otherwiſe as the caſe may be*) carrying to ſell and expoſing to ſale [*Here inſert the kind of goods*] which

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which were not manufactured within this Commonwealth, and of which he is not the real worker or maker, and that on the day of , at ſaid , he did ſell to of , part of the goods aforeſaid, viz. , contrary to a law of the Commonwealth, entitled, An Act againſt hawkers, pedlars and petty chapmen, and againſt the peace and dignity of the ſame.

A. B.

This complaint ſhould be ſworn to, if it be judged proper to iſſue a warrant thereon to apprehend the perſon complained againſt; in which caſe it will be proper to add at (*) the words, "upon oath."

Warrant.

D———ſſ.

To the Sheriff of the ſaid county of , or either of his Deputies, or any of the Conſtables of the town of , in ſaid county.

(L.S.) Whereas A. B. hath this day made complaint upon oath to me the ſubſcriber, one of the Juſtices of the Peace for for ſaid county, that, &c. [*Here inſert the ſubſtance of the complaint as above.*] Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you forthwith to apprehend the ſaid C. D. and bring him before me to recognize with ſufficient ſurety or ſureties, to appear and anſwer ſaid complaint, or ſuch information, as may be exhibited againſt him, before the Court of General Seſſions of the Peace, which is next to be holden within and for the county aforeſaid, and you are alike required to take the ſaid goods, that the ſame may be ſecured and detained until the trial; and alſo to ſummon. to appear before me that they may be recognized to give evidence thereon.

Given under my hand and ſeal this day of , A. D. 18

S. T.

Summons.

If inſtead of a warrant the Juſtice ſhould judge proper only to ſummon the perſon complained againſt to appear before him, the ſummons may be made out in the ſame form with the above warrant, only inſtead of the words "forthwith to apprehend the ſaid C. D. and bring him," ſay "to ſummon the ſaid C. D. to appear."

Recognizance of the perſon complained againſt.

This may be in common form (See *Recognizance*) but I think it ſhould be made to the complainant rather than to the Commonwealth.

Recognizance of the Complainant.

D———ſſ. Memorandum,

That on the day of , C. D. perſonally appeared before me the ſubſcriber, one of the Juſtices of the Peace, for the ſaid county of , A. B. of , and E. F. of , and ſeverally acknowledged themſelves to be indebted to C. D. now reſident in , in the ſum of pounds, to be levied on

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their goods or chattels, lands or tenements, and in want thereof upon their bodies, if default be made in the condition following, viz.

The condition of the above recognizance is such, that whereas the said A. B. hath complained before the said Justice against the said C. D. having committed an offence against the law of the Commonwealth, entitled, "An Act against hawkers, pedlars and petty chapmen," as in and by said complaint in the hands of the said Justice, dated the day of , will appear.

Now in case the said A. B. should fail to prosecute or convict the said C. D. upon the said complaint, if he shall thereupon pay the legal cost which for the said C. D. may be assessed against him the said A. B. then the above recognizance to be void; otherwise to remain in full force.

S. T.

HORSE RACING.

An Act for the prevention of Horse Racing.

SECT. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the first day of *June* next, no plate, purse, sum of money, or other thing of value, shall be run for by any horse, mare or gelding: And if any person shall run, or cause, or procure to be run, or aid and abet in running, or being the owner, shall suffer to be run, any horse, mare or gelding, for any plate, purse, sum of money, or other thing of value, or shall bet or stake any plate, purse, sum of money or other thing of value, on the event of any such race; or shall hold any such bets or stakes; or publish or distribute any written or printed advertisement of such race, he shall forfeit and pay a sum not exceeding *one hundred dollars*, nor less than *ten dollars*; to be recovered by indictment, in the Supreme Judicial Court, to the use of the Commonwealth, or in the Court of General Sessions of the Peace, to the use of the county; or by an action of trespass on the case, in favour of any person who shall first sue therefor, to effect, in the Court of Common Pleas; or, if the suit be for not more than *thirteen dollars* and *thirty three cents*, before a Justice of the Peace; one moiety thereof to the use of the plaintiff, and the other moiety to the use of the poor of the town wherein the offence shall have been committed.

SECT. 2. *And be it further enacted by the authority aforesaid,* That it shall be the duty of every Sheriff, Deputy Sheriff, Coroner, Constable, and Grand Juror, to give information to the proper authority, of any transgression of this law, occurring within his proper district, and coming to his knowledge; and it shall be the duty of every Justice of the Peace, upon complaint duly made to him, by

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an informing officer, or other person, to issue his warrant, to apprehend any person or persons transgressing this Act, within the county of said Justice, and to hold him or them to appear and answer therefor, at the Supreme Judicial Court, or Court of General Sessions of the Peace, next to be holden in and for the same county.

SECT. 3. *Be it further enacted*, That this act shall continue in force for four years after passing the same, and no longer.

[This Act passed *March* 8, 1803.]

IDLE and DISORDERLY PERSONS.—See BEGGARS.
IMPOUNDING of CATTLE.—See CATTLE.

LARCENIES.

Extract from "An Act providing for the Punishment of the Crimes of Robbery and other Larcenies, and for the Prevention thereof."

SECT. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That any person who shall feloniously steal, take and carry away of the property of another, any money, goods or chattels, or any bond, promissory note, bill of exchange, or other bill, order or certificate, or any book of accounts for or respecting any money or goods, due or becoming due and payable, or to be delivered, or any deed or writing containing a conveyance of lands, or other real estate, or any other valuable contract remaining in force, or any receipt, release, or defeasance, or any writ, process or publick record, shall be deemed guilty of the crime of larceny; and every such offender, and any person present, aiding and abetting in any such larceny, or accessary thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, who, before any court having jurisdiction thereof, shall be duly convicted of either of the felonies and offences aforesaid, shall be punished, when the money, goods or other article or articles stolen shall not exceed in amount or value the sum of *one hundred dollars*, by solitary imprisonment for a term not exceeding six months, and by confinement afterwards to hard labour for a term not exceeding one year, or by a fine not exceeding *one hundred dollars*, and imprisonment in the common gaol for a term not exceeding one year. And when the money, goods, or other article or articles stolen shall exceed in amount or value the sum of *one hundred dollars*, then by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labour for a term not exceeding three years, to be ordered by the Court before whom the conviction may be, according to the degree and aggravation of the offence.

SECT. 2.

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SECT. 2. *Be it further enacted*, That the Supreme Judicial Court ſhall have excluſively the juriſdiction of all larcenies where the money, goods or other article or articles ſtolen ſhall be alleged to exceed in amount or value the ſum of *one hundred dollars*; the ſaid Supreme Judicial Court, the Courts of Common Pleas within their reſpective counties, and the Municipal Court of the town of *Boſton* within the ſaid town of *Boſton*, ſhall have concurrent juriſdiction of all larcenies, where the money, goods or other article or articles ſtolen ſhall not be alleged to exceed in amount or value the ſum of *one hundred dollars*; and every Juſtice of the Peace, within his proper county, ſhall have concurrent juriſdiction with the ſaid Courts, of all larcenies, where the money, goods or other article or articles ſtolen ſhall not be alleged to exceed in amount or value the ſum of *five dollars*. Any perſon duly convicted before a Court of Common Pleas, or the ſaid Municipal Court, of any larceny, either as principal or as acceſſary before or after the fact, ſhall be puniſhed by ſuch fine, not exceeding *one hundred dollars*, and impriſonment in the common gaol for ſuch term, not exceeding one year, either or both, as the Juſtices of ſaid Court before whom the conviction may be, ſhall ſentence and order, according to the aggravation of the offence; and any perſon duly convicted before a Juſtice of the Peace of any larceny, either as principal or as acceſſary before or after the fact, ſhall be puniſhed by ſuch fine, not exceeding *five dollars*, and impriſonment in the common gaol for ſuch term, not exceeding *twenty days*, either or both, as the ſaid Juſtice before whom the conviction may be ſhall ſentence and order, according to the aggravation of the offence.

SECT. 15. *Be it further enacted*, That it ſhall be the duty of any Sheriff or other officer who ſhall be charged with, or lawfully employed in apprehending and arreſting any perſon accuſed of the crime of larceny or robbery, or as acceſſary therein in any manner as aforeſaid, to ſeize and ſecure the money, goods or other articles aforeſaid, alleged to be ſtolen or to have been obtained by ſuch larceny or robbery, and which ſhall be found in the poſſeſſion of ſuch accuſed perſon, or which ſhall be waived by him or her in flying from juſtice: And of the money, goods, or other articles aforeſaid, which ſhall be ſo found and ſecured, a true inventory or ſchedule ſhall be made in, or annexed to, the return of ſuch Sheriff or other officer, upon the warrant or proceſs, which ſhall have been iſſued for the arreſt of any perſon accuſed as aforeſaid; and ſuch Sheriff or other officer ſhall be accountable for the money, goods, or other articles thereby ſeized and ſecured. And whenever the conviction of any perſon accuſed as aforeſaid ſhall be had upon the proſecution, and by the care and diligence of the owner of any money, goods or articles, found and ſeized as aforeſaid, ſuch owner ſhall and may have reſtitution thereof immediately after ſuch conviction, by an order in open Court, or by a writ of reſtitution, as the caſe may require.

SECT. 17.

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SECT. 17. *And be it further enacted*, That when any perſon, charged with the crime of larceny, or as an acceſſary therein, or as a receiver of money, goods or other articles ſtolen as aforeſaid, ſhall and may be letten to bail, the recognizance for the appearance of ſuch perſon ſhall be taken, with ſufficient ſurety or ſureties, in ſuch ſum as may be reaſonably required for that purpoſe; with a further additional ſum, which ſhall be double the amount or value of the money, goods or articles charged to have been ſtolen or obtained by ſuch larceny; and when ſuch recognizance ſhall be forfeited by default, the Juſtices of the Court before whom judgment may be rendered thereon, ſhall order the amount or value of the money, goods or other articles ſtolen or obtained as aforeſaid, to be paid out of the ſum which ſhall be collected on ſuch recognizance, to the owner of ſuch money, goods or other articles; provided he ſhall have been the proſecutor.

[This Act paſſed *March* 16, 1805.]

LEWDNESS.

Extract from an Act paſſed Febrary 26, 1794, *providing for the relief of the Poor.*

AND for the prevention of Poverty, as well as Lewdneſs, *Be it further enacted*, That any perſon who ſhall be ſuſpected of keeping a houſe of ill fame, reſorted to for the purpoſe of proſtitution or lewdneſs, may be apprehended by warrant from any Juſtice of the Peace in the county, upon complaint of the overſeers of the town or diſtrict wherein ſuch houſe ſhall be; and upon conviction of ſuch offence before ſuch Juſtice, or before the Court of General Seſſions of the Peace, or preſentment of the Grand Jury, may be ordered to the houſe of correction for a term not exceeding one month; and after ſuch conviction ſhall not be allowed to keep lodgers or boarders in any town or diſtrict, without the licenſe of the overſeers of the poor thereof.

LIBRARIES.

WHEN any ſeven or more perſons, capable of contracting in any town or diſtrict in this Commonwealth, who have or ſhall become proprietors in common of any library, form themſelves (as by law they may) into a ſociety or body politick, for the expreſs purpoſe of holding, increaſing, preſerving and uſing ſuch library; any five of them may apply in writing, by them ſigned, to any Juſtice of the Peace within the county where the ſame town

or

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or diſtrict may be, ſtating the purpoſes of their meeting, and requeſting him to iſſue a warrant for calling a meeting of ſaid proprietors, ſuch Juſtice may grant his warrant to ſome one of them, directing him to call a meeting of the ſaid proprietors, at the time and place and for the purpoſes in ſuch warrant expreſſed; which proprietor ſhall notify ſuch meeting by poſting up the ſubſtance of ſaid warrant in ſome publick place in the ſaid town or diſtrict where the ſaid library ſhall be kept, ſeven days at leaſt before the time of ſaid meeting.

FORM

Of an Application to a Juſtice for a Warrant to call a meeting of the Proprietors of a Social Library.

To S. T. Eſq. one of the Juſtices of the Peace, within and for the county of D.

We the ſubſcribers, five of the proprietors of a ſocial library in the town of in ſaid county, called , hereby requeſt that you iſſue a warrant for calling a meeting of ſaid proprietors on , at , &c. for the following purpoſes, viz.

Warrant.

D———ſſ.

To A. B. one of the ſubſcribers of the foregoing Application.

(L.S.) You are required, in the name of the Commonwealth of Maſſachuſetts, to notify and warn the proprietors of the ſocial library mentioned in ſaid application, as the law directs, to meet at the time and place and for the purpoſes therein expreſſed.

Given under my hand and ſeal, the day of , A. D.

S. T.

Purſuant to the above warrant to me directed, I do hereby notify and warn the proprietors of the ſocial library, mentioned in the preceding application, to meet at the time and place and for the purpoſes therein expreſſed.

A. B.

An Act to enable the Proprietors of Social Libraries to manage the ſame.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That any ſeven or more perſons, capable of contracting in any town or diſtrict in this Commonwealth, who ſhall become proprietors in common of any library, may form themſelves into a ſociety or body politick, for the expreſs purpoſes of holding, increaſing, preſerving and uſing ſuch library; and to that end, any five or more of them may, by an application in writing, by them ſigned, to any Juſtice of the Peace within the ſame county wherein the ſaid town or diſtrict may be

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be, ſtating the purpoſes of their meeting, and requeſting him to iſſue his warrant for calling a meeting of the ſaid proprietors; and the ſaid Juſtice may grant his warrant to one of them, directing him to call a meeting of the ſaid proprietors, at the time and place, and for the purpoſes expreſſed in ſuch warrant; and ſaid meeting ſhall be called by poſting up the purport of ſaid warrant in ſome publick place in the ſaid town or diſtrict where the ſaid library ſhall be kept, ſeven days at leaſt before the time of ſaid meeting; and the proprietors being thus met and organized, they may then agree and determine upon a method of calling future meetings; and in all caſes votes ſhall be determined by counting and allowing one vote to each ſhare. And the proprietors of any ſuch library ſhall have power to poſſeſs and hold to them, their ſucceſſors and aſſigns, real or perſonal eſtate, to any amount not exceeding *five thouſand dollars*, over and above the value of their books.

SECT. 2. *Be it further enacted*, That any ſeven or more of the proprietors of ſuch library, met in purſuance of ſuch notice, ſhall have power to chooſe a Moderator, Clerk, Librarian, Collector, Treaſurer, and ſuch other officers as they may find neceſſary: And the Clerk ſhall be ſworn to the faithful performance of his duties, and the Treaſurer ſhall give bond, with ſufficient ſurety or ſureties, faithfully to account for all monies he may receive by virtue of this Act: And the ſaid proprietors, when ſo incorporated and organized, ſhall have power to raiſe monies by aſſeſſments on the ſeveral ſhares in ſuch library, as they may judge neceſſary for preſerving and increaſing the ſame; to make bye-laws for the due regulation of the concerns of the ſaid Corporation, not repugnant to the conſtitution and laws of this Commonwealth, and to annex and recover penalties for any breach of ſuch bye-laws, not exceeding *three dollars* for any one breach thereof.

SECT. 3. *Be it further enacted*, That the proprietors of any ſuch library, ſo incorporated, ſhall be called and known by the name of the proprietors of the Social Library in the town of , and by that name ſhall ſue and be ſued, proſecute and defend, plead and be impleaded, in all actions and proceſſes in law; and when there ſhall be more than one ſuch library in any town or diſtrict, the proprietors thereof ſhall be known and called by the name of the proprietors of the ſecond, third, fourth, &c. (as the caſe may be) Social Library, in the town of .

SECT. 4. *Be it further enacted*, That an Act paſſed the third day of *March*, in the year of our Lord one thouſand ſeven hundred and ninety-eight, entitled, "An Act to enable the proprietors of ſocial libraries to manage the ſame," be, and hereby are repealed: *Provided neverthelefs*, That with regard to all ſuits and cauſes of ſuits, and all rights exiſting under and by force of ſaid Act, it ſhall be conſidered as in full force.

[This act paſſed *March* 8, 1806.]

An

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An Act in addition to an Act, entitled, "An Act to enable the Proprietors of Social Libraries to manage the same."

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That any seven or more persons, who are officers in any division of the militia of this Commonwealth, who shall, by writing, associate themselves for the purpose of forming a Military Library Society, within the limits of their Division, may become a body politick, by *The name of the Military Library Society, in the Division,* for the express purpose of purchasing, holding, increasing, preserving, and using such Library; and to this end, any five or more of them may make an application in writing to any Justice of the Peace, within the limits of the Division to which said applicants may belong, stating the purposes of their meeting, and requesting him to call a meeting of the said proprietors. And the said Justice may thereon grant his warrant to any one of them, directing him to call a meeting of the said proprietors at the time and place expressed in such warrant; and said meeting shall be called by posting up the purport of said warrant, in such publick places, within the Division, where the said Library is to be kept, or by publishing the same in one or more newspapers printed within the said Division, twenty days at least before the time of said meeting, as the said Justice shall order. And the said proprietors being thus met and organized, may then agree and determine upon the method of calling future meetings; and shall be entitled to all the other rights, powers, and privileges, and be under all the limitations and restrictions, *mutatis mutandis*, which are contained in the Act to which this is an addition.

[This Act passed *February* 24, 1807.]

LICENSED HOUSES.

An Act for the due regulation of Licensed Houses.

BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That no person whatsoever may presume to be a common victualler, innholder, taverner, or seller of wine, beer, ale, cider, brandy, rum, or any strong liquors, by retail, or in a less quantity than twenty-eight gallons, and that delivered and carried away all at one time, except such person be first duly licensed according to law, by the Justices of the Peace of the same county where such person lives, in General Sessions assembled, according to the regulations hereafter expressed, on pain of forfeiting the sum of *twenty pounds*; and if any person shall at any time sell any spirituous liquors,

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quors, or any mixed liquors, part of which is ſpirituous, without licenſe therefor duly had and obtained, according to law, he ſhall forfeit and pay for each offence a ſum not exceeding *ſix pounds*, nor leſs than *forty ſhillings*, which fine or forfeiture, as alſo the fine or forfeiture aforementioned, ſhall enure one half thereof to the informer, the other half to the county where ſuch offence is committed.

And be it further enacted by the authority aforeſaid, That all licenſes ſhall be yearly renewed; and that the clerk of the Peace, in the reſpective counties, from time to time annually, before the granting licenſes, ſhall tranſmit to the Selectmen of every town and diſtrict within the county, a liſt of the names of the perſons in ſuch town or diſtrict, that were licenſed the year before; and that licenſes ſhall not be renewed to any perſon borne on ſuch liſt, unleſs the Selectmen of ſuch town or diſtrict ſhall have conſidered the ſame and made return thereof to the clerk of the Peace of the county to which they reſpectively belong, certifying thereon as follows, viz.

We the ſubſcribers, Selectmen of the town (or diſtrict) of , do hereby certify, that we have maturely conſidered the returned liſt of ſuch perſons as were licenſed the year paſt, and to the beſt of our knowledge, the following perſons named therein, have maintained good rule and order in their reſpective houſes or ſhops, and have conformed to the laws and regulations reſpecting licenſed perſons and are firmly attached to the conſtitution and laws of this Commonwealth.

And no perſon ſhall have his licenſe renewed, unleſs his name be inſerted in ſuch certificate, or in another of the ſame tenor.

And no perſon after the firſt day of *June*, one thouſand ſeven hundred and eighty-ſeven, ſhall be licenſed to be a victualler, innholder, taverner or retailer of ſpirituous liquors, until he has taken an oath in the following words:

I A. B. do ſwear, that I will bear true faith and allegiance to the Commonwealth of Maſſachuſetts, and that I will, to the utmoſt of my power, defend the conſtitution and government thereof, againſt traitorous conſpiracies and all hoſtile and violent attempts whatſoever.

Which oath may be adminiſtered by the clerk of the Court of General Seſſions of the peace, or by any Juſtice of the peace, or any town or diſtrict clerk, in ſuch towns or diſtricts wherein no Juſtice of the Peace dwells. And the Juſtice or clerk who may adminiſter ſuch oath, ſhall make certificate thereof to the Court of General Seſſions of the Peace; which certificate ſhall be filed by the clerk of the ſaid Court, among the records of the ſame court; and a certificate that ſuch oath has been taken, ſhall be made and filed as aforeſaid, in caſes where the clerk of the ſaid court ſhall adminiſter ſuch oath; and no certificate as aforeſaid ſhall be required afterwards, upon a renewal of ſuch perſon's li-

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cenſe. And no perſon ſhall be firſtly or originally licenſed, to be a victualler, innholder, taverner, or ſeller of wine, beer, ale, cider, brandy, rum, or other ſtrong liquors, by retail in the town or diſtrict where he lives, other than ſuch as produce a certificate from the Selectmen of the ſame town or diſtrict, recommending them as following, viz.

We the ſubſcribers, Selectmen of the town (or diſtrict) of , do approve of [*inſerting the name of the perſon and the employment for which he or ſhe is approbated*] in the ſaid town (or diſtrict) for the year enſuing; and we do hereby recommend the ſaid as a perſon of ſober life and converſation, ſuitably qualified and provided for the exerciſe of ſuch an employment, and firmly attached to the conſtitution and laws of this Commonwealth.

And it ſhall be the duty of the Selectmen of the ſeveral towns annually, to certify to the Court of the General Seſſions of the Peace, at the beginning of their term for granting licenſes, what number of innholders and retailers in their reſpective towns, they judge to be neceſſary for the publick good. And that no licenſe be renewed to any perſon who ſhall have been before licenſed, againſt whom any preſentment, complaint or information ſhall be made for miſrule or diſorder in ſuch houſe, or for not being ſuitably provided as the law in ſuch caſe requires, to entertain ſtrangers and travellers at bed and board, before the matter complained of and informed againſt, be inquired into and judged of. *Provided* ſuch preſentment or complaint be proſecuted to effect, at or before the ſame court for granting ſuch licenſes; unleſs the proſecution be delayed at the motion of the perſon applying for the licenſe.

And be it further enacted by the authority aforeſaid, That all innholders, taverners and common victuallers, ſhall at all times be furniſhed with ſuitable proviſions and lodging, for the refreſhment and entertainment of ſtrangers and travellers, paſturing and ſtable room, hay and provender (ſaving that in populous and ſea-port towns, ſtable room, hay and provender only are required) for their horſes and cattle, on pain of being deprived of their licenſe. And every licenſed victualler, innholder or taverner, ſhall at all times have a board or ſign affixed to his or her houſe, or in ſome conſpicuous place near the ſame, with his or her name at large thereon, and the particular employment for which he or ſhe is licenſed: And if any victualler, innholder or taverner, enjoined by law to be ſuitably provided to receive and entertain ſtrangers, travellers or others, as occaſion may require, ſhall be convicted of refuſing to make ſuitable proviſion when deſired, for the receiving of ſtrangers, travellers and their horſes and cattle, or for any publick entertainment, ſuch perſon, upon being convicted thereof before the Juſtices of the General Seſſions of the Peace of the county to which ſuch perſon belongs, ſhall by the ſaid Juſtices be deprived of his or her licenſe; and the ſaid Juſtices ſhall be and they

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they are hereby empowered and directed to order the Sheriff of the ſame county, or his Deputy Sheriff, to cauſe the ſign of ſuch convicted perſon to be taken down.

And be it further enacted by the authority aforeſaid, That no perſon, except thoſe who are licenſed for common victuallers, taverners or innholders, may preſume to ſell any ſtrong liquors, as in this act mentioned, nor any mixed liquors part of which are ſpirituous, to be drank in their houſes, or any of the parts or dependencies of the ſame; and that if any perſon licenſed to ſell wine, beer, ale, cider, brandy, rum, or any ſtrong liquors by retail only, ſhall be convicted of entertaining or ſuffering any perſon or perſons to drink ſuch ſtrong liquors or mixed liquors in their ſhops, houſes or parts or dependencies of ſuch ſhops or houſes, he ſhall incur and ſuffer the like penalties and forfeitures as are inflicted by this law, upon perſons ſelling without licenſe, to be recovered and appropriated in the ſame manner.

And be it enacted by the authority aforeſaid, That no taverner, innholder or victualler, ſhall have or keep in or about their houſes, yards, gardens or dependencies, any dice, cards, bowls, billiards, quoits, or any other implements uſed in gaming; nor ſhall ſuffer any perſon or perſons reſorting unto any of their houſes, to uſe or exerciſe any of the ſaid games, or any other unlawful game or ſport, within their ſaid houſes, or any of the dependencies as aforeſaid, or places to them belonging, on pain of forfeiting the ſum of *forty ſhillings* for every ſuch offence, upon due conviction thereof, to be diſpoſed of as is herein directed; and every perſon convicted of playing as aforeſaid, in any ſuch houſe or dependencies thereof, ſhall forfeit the ſum of *twenty ſhillings*, to be diſpoſed of as aforeſaid.

And be it further enacted by the authority aforeſaid, That no taverner, innkeeper or victualler, ſhall ſuffer any dancing or revelling in his houſe, or the dependencies thereof, as aforeſaid, on penalty of *thirty ſhillings*, to be paid by the maſter or keeper of the ſaid houſe, who ſhall ſuffer the ſame, and the penalty of *ſix ſhillings* to be paid by each perſon offending, in any of the ſaid particulars, to be diſpoſed of as aforeſaid.

And be it further enacted by the authority aforeſaid, That no taverner, innholder or victualler, ſhall ſuffer any perſon to drink to drunkenneſs or exceſs in his or her houſe, or ſuffer any minor (travellers excepted) or ſervant to ſit drinking there, or to have any ſtrong drink there, without ſpecial allowance of their reſpective parents, guardians or maſters, on pain of forfeiting the fine of *twenty ſhillings*, for every offence of that kind, to be appropriated as aforeſaid.

And be it further enacted by the authority aforeſaid, That if any perſon, after being duly convicted of any breach of this law, ſhall again break any part of this law, and thereof be duly convicted, he ſhall, over and above ſuffering the penalty ſet to ſuch breach of this

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this law, recognize for his good behaviour in the ſum of *twenty pounds* for one year, with two ſufficient ſureties, over and above his recognizance for good order, at taking out his licenſe. And if any perſon convicted of a ſecond breach of this law, as aforeſaid, ſhall preſume again to break any part of this law, over and above ſuffering the penalty of this law for ſuch breach of it, he or ſhe ſhall forfeit his or her licenſe, not to be renewed again for the ſpace of three years, next following.

And be it further enacted by the authority aforeſaid, That if any perſon being duly convicted of any breach of this law ſhall be unable or ſhall neglect to pay and ſatisfy the fine impoſed, together with the coſts of proſecution, and likewiſe give bond for his good behaviour, if it be on the ſecond conviction, within twenty four hours next after ſentence declared in that reſpect, it ſhall and may be lawful for the court, before whom ſuch conviction may be, to order ſuch offender to be openly whipt, not exceeding fifteen ſtripes, for one offence, nor leſs than ten, and to reſtrain the offender in priſon until the ſaid fine and charges are paid and bond given as aforeſaid, or the order for corporal puniſhment be executed.

And be it further enacted by the authority aforeſaid, That before any perſon ſhall receive a licenſe to be an innholder, taverner, victualler or retailer of ſpiritous liquors, every ſuch perſon ſhall become bound by recognizance to the Commonwealth, in the ſum of *twenty pounds*, as principal, with two ſureties in *ten pounds* each, before one or more Juſtices of the General Seſſions of the Peace, on condition following, viz.

The condition of this recognizance is ſuch, That whereas the above bounden A. B. is admitted and allowed by the Juſtices of the General Seſſions of the Peace, to keep a tavern, inn, or victualling houſe, and to ſell wine, beer, ale, cider, brandy, rum, and mixed liquors, and other ſtrong liquors by retail, for the ſpace of one whole year next enſuing, and no longer, in the now dwelling houſe of the ſaid A. B. and no other: if therefore, the ſaid A. B. during the time aforeſaid, ſhall keep and maintain good order and rule, and ſhall ſuffer no diſorders nor unlawful games to be uſed in his ſaid houſe, or in any of the dependencies thereof, and ſhall not break any of the laws for the regulation of ſuch houſes, then this recognizance to be void; otherwiſe, to remain in full force and virtue.

And before any perſon ſhall receive licenſe to be a retailer of ſtrong liquors, to be ſpent out of his houſe, and not otherwiſe, ſuch perſon ſhall become bound by recognizance, as aforeſaid, on condition following, viz.

The condition of this recognizance is ſuch, That whereas the above bounden A. B. is licenſed and allowed by the Juſtices of the Court of General Seſſions of the Peace, to retail ſtrong liquors, to be ſpent out of his now dwelling houſe or ſhop, for the ſpace of

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one year next enſuing, and no longer, and not otherwiſe; if therefore, the ſaid A. B. ſhall not break the laws made for the regulation of ſuch retailers, and ſhall do and obſerve the directions of the law, relating to ſuch licenſes, then this preſent recognizance to be void; otherwiſe, to remain in full force and virtue.

And be it further enacted by the authority aforeſaid, That upon default being made, upon any ſuch recognizance, a *ſcire facias* ſhall iſſue, and judgment and execution be had in the uſual form. And that no recognizance for the keeping the laws reſpecting the above mentioned licenſes ſhall be put in ſuit for any breach thereof made, after the expiration of two years from the time of taking ſuch recognizance.

And be it further enacted, That every perſon to whom any licenſe ſhall be granted, before the receiving or exerciſing the ſame, over and above the recognizance required, for the due obſervation of the laws, and keeping good rule and order as aforeſaid, ſhall alſo become bound to the Commonwealth, in a diſtinct recognizance, with ſufficient ſureties, in manner as aforeſaid, on condition, that the perſon ſo licenſed ſhall duly and truly pay the duties of exciſe, according to the regulations that are, or during the time of ſuch perſon's licenſe may be eſtabliſhed by law.

And be it further enacted by the authority aforeſaid, That the time of granting licenſes to innholders and retailers as aforeſaid, ſhall be at the firſt General Seſſions of the Peace, that ſhall be held in courſe, within the ſeveral counties, on or next after the laſt Tueſday of *June*, annually; unleſs upon application made to the General Seſſions of the Peace, at any of the terms ſtated by law for holding ſaid court, and on ſuch day and time of the ſitting of ſuch court, as the Juſtices of the ſame are wont to give their more general attendance, for licenſe to keep an inn, tavern, a houſe of publick entertainment, or to retail ſtrong liquors, it ſhall appear to the ſame court that the perſon applying was unavoidably prevented from making application at the ſaid firſt General Seſſions of the Peace, or that the neceſſity of ſuch licenſe had taken place ſince that time; and in either caſe, that the publick good makes it neceſſary that the ſame ſhould be granted; in which caſe the ſaid Juſtices are empowered to grant the ſame, as though it was at the proper term for granting licenſes, the perſon applying for ſuch licenſe paying therefor, for the uſe of the county, *ſix ſhillings*, over and above the uſual fees and duties.

And be it further enacted, That when it ſhall ſo happen that any licenſed innholder or retailer ſhall die before the year is expired for which licenſe ſhall have been granted, and the widow of the deceaſed, if ſuch there be, or children, or other repreſentative ſhall deſire to exerciſe ſuch employment, in ſuch licenſed houſe, the remainder of the year; and where any licenſed innholder or retailer ſhall remove from any licenſed houſe, and the purchaſer or occupier of ſuch houſe ſhall petition to be licenſed to be an innholder

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holder or retailer in the ſame houſe for the remainder of the year, in every ſuch caſe it ſhall be lawful, and the Juſtices of the Court of General Seſſions of the Peace are hereby empowered, at any of the terms appointed by law for holding the ſame in ſaid county, and any two Juſtices of the Peace, *quorum unus*, are alſo empowered to grant licenſes to ſuch perſon or petitioner applying therefor, the remainder of the year. *Provided* ſuch perſon be ſuitably qualified therefor, and recommended in manner as the law directs.

And the better to prevent intemperance, and nurſeries of vice and debauchery:

Be it further enacted, That the Juſtices of the General Seſſions of the Peace in each county, be and they are hereby directed not to licenſe more perſons in any town or diſtrict to keep houſes for common entertainment, or to retail ſpirituous liquors as aforeſaid than the Juſtices ſhall judge neceſſary for the receiving and refreſhment of travellers and ſtrangers, and to ſerve the publick occaſions of ſuch town or diſtrict, or are neceſſary for the publick good: And all publick houſes ſhall be on or near the high ſtreets, roads and places of great reſort.

And be it further enacted by the authority aforeſaid, That the Selectmen in each town ſhall cauſe to be poſted up in the houſes and ſhops of all taverners, innholders and retailers as aforeſaid, within ſuch towns or diſtricts, a liſt of the names of all perſons reputed common drunkards, or become tipplers, or common gameſters, miſſpending their time or eſtate in ſuch houſes. And every keeper of ſuch houſe or ſhop, after notice given him as aforeſaid, that ſhall be convicted before one or more Juſtices of the Peace of entertaining or ſuffering any of the perſons in ſuch liſt to drink, or tipple, or game in his or her houſe, or any of the dependencies thereof, or of *ſelling* them ſpirituous liquor as aforeſaid, ſhall forfeit and pay the ſum of *thirty ſhillings*.

And be it further enacted by the authority aforeſaid, That whenever any perſon ſhall, by idleneſs or exceſſive drinking of ſpirituous liquors, ſo miſſpend, waſte or leſſen his or her eſtate, as thereby either to expoſe himſelf or herſelf, his or her family to want or indigent circumſtances, or the town to which he or ſhe belongs, to a charge or expenſe for the maintenance or ſupport of him or her, or his or her family, or ſhall ſo indulge himſelf or herſelf in the uſe of ſpirituous liquors, as thereby greatly to injure his or her health, or endanger the loſs thereof, ſuch Selectmen ſhall in writing under their hands, forbid all licenſed perſons in their reſpective towns and diſtricts, to ſell to any of the afore deſcribed miſſpenders of time and eſtate, any ſpirituous or ſtrong liquors, in this act mentioned, for the ſpace of one year, and ſhall in like manner forbid the licenſed perſons of any town or diſtrict to which ſuch miſſpender may reſort for the ſame; and if any of the perſons contained in the ſaid prohibition ſhall not in the opinion of the ſaid Selectmen or the major part of them, have reformed during the

ſaid

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ſaid year, in ſuch caſe the Selectmen of ſuch town or diſtrict ſhall renew the prohibition in manner as aforeſaid; and if any licenſed victualler, taverner, innholder or retailer of ſpirituous or ſtrong liquors, ſhall, during any ſuch prohibition, ſell to any perſon contained therein, any ſpirituous liquors in this act mentioned, he ſhall forfeit and pay for each offence the ſum of *twenty ſhillings*, to the uſe of the town or diſtrict where ſuch miſpender lives, to be uſed for and recovered by the treaſurer of ſuch town or diſtrict.

And whereas the giving credit to town inhabitants and others living near houſes of publick entertainment, very much tends to the deſtructive expenſe of time and money of many perſons:

Be it therefore enacted, That if any innholder, retailer, alehouſe keeper, or common victualler, truſt or give credit to any perſon inhabiting in the ſame town where they are truſted, or to any perſon whoſe place of abode is within five miles diſtance, for victuals or drink for more than *ten ſhillings*, ſuch innholder, retailer, ale houſe keeper, or common victualler ſhall loſe all ſuch ſums ſo truſted, and all actions hereafter brought for ſuch debt or debts ſhall be utterly excluded and barred. And the defendant in ſuch action may plead the matter ſpecially, or under the general iſſue give the matter in evidence; any law, uſage or cuſtom to the contrary notwithſtanding.

And for the better inſpecting of licenſed houſes, and the diſcovery of ſuch perſons as ſhall preſume to ſell without licenſe,

Be it enacted by the authority aforeſaid, That the Selectmen in each town or diſtrict, reſpectively, ſhall take due care that tythingmen be annually choſen, at the general meeting for the choice of town officers, as is by law provided; and upon any vacancy, to fill up the number at any other town meeting; which tythingmen ſhall have power and whoſe duty it ſhall be, carefully to inſpect all licenſed houſes, and to inform of all diſorders or miſdemeanors which they ſhall diſcover or know to be committed in them, or any of them, to a Juſtice of the Peace, or to the General Seſſions within the ſame county; as alſo of all ſuch as ſhall ſell ſpirituous liquors as aforeſaid, without licenſe: And in like manner to inform of all idle and diſorderly perſons, profane ſwearers or curſers, Sabbath breakers, and the like offenders, to the intent they may be puniſhed: Every of which tythingmen ſhall be ſworn as other town officers are, to the faithful diſcharge of his office, and ſhall be entitled to ſuch part of the penalties enjoined by this act, as by law accrues to the informer.

And be it further enacted by the authority aforeſaid, That all fines and penalties ariſing from any of the offences aforeſaid, not otherwiſe appropriated, ſhall be diſpoſed of, one half thereof to the uſe of the county where the offence is committed, and the other moiety to him or them who ſhall inform and proſecute for the ſame; except where the offence is proſecuted by a Grand Jury, before the Supreme Judicial Court or Court of General Seſſions of the

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the Peace; in which caſe the whole forfeiture to be to the uſe of the county.

And every Juſtice of the Peace is hereby empowered to hear and determine any of the offences above mentioned, committed within his county, where the penalty doth not exceed *four pounds*, and not otherwiſe: And every Juſtice of the Peace before whom ſuch conviction ſhall be had, and where the party convicted doth not appeal, ſhall make a certificate of the ſame; and the Juſtice before whom ſuch conviction is, ſhall cauſe the ſame to be fairly written, and ſhall return the ſame to the then next General Seſſions of the Peace for the county where the ſaid offence is committed, there to be read over in open court, and filed among the records of the ſame court, to the end, among other things, that it may be known, that the breakers of this law are duly proſecuted.

[This act paſſed *February* 28, 1787.]

FORM

Of a Petition to two Juſtices of the Peace, quorum unus, to be licenſed to keep Tavern or retail Spirituous Liquors in a Houſe, which has been previouſly occupied for that Purpoſe by another Perſon.

To S. T. and J. F. two of the Juſtices of the Peace within and for the county of D. *quorum unus.*

The petition of A. B. of P. in ſaid county, humbly ſhews, That C. D. who on the Tueſday of laſt, was licenſed by the Court of General Seſſions of the Peace for ſaid county, to keep a tavern (*or* retail ſpirituous liquors, *as the caſe may be*) for one year thence following, in the houſe at ſaid P. now occupied by your petitioner, has ſince removed from the ſame, (*or* has ſince deceaſed, *as the caſe may be*) and your petitioner being deſirous to exerciſe ſaid employment in ſaid houſe for the remainder of the year, requeſts that you would licenſe him to be an innholder (*or* a retailer) therein accordingly. He has for that purpoſe obtained an approbation from the ſelectmen of ſaid town, which accompanies this petition.

Dated at ſaid P. A. D. 18

A. B.

S. T. } Two of the Juſtices of the Peace,
J. F. } within and for the county aforeſaid, *quorum unus.*

LORD'S DAY.

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LORD'S DAY.

An Act providing for the due Observation of the Lord's Day, and repealing the several Laws heretofore made for that Purpose.

WHEREAS the observance of the Lord's day, is highly promotive of the welfare of a community, by affording necessary seasons for relaxation, from labour and the cares of business; for moral reflections and conversation on the duties of life, and the frequent errours of human conduct; for publick and private worship of the Maker, Governour and Judge of the World, and for those acts of charity which support and adorn a Christian Society: And whereas some thoughtless and irreligious persons, inattentive to the duties and benefits of the Lord's day, profane the same, by unnecessarily pursuing their worldly business and recreations on that day, to their own great damage, as members of a Christian Society; to the great disturbance of well disposed persons, and to the great damage of the community, by producing dissipation of manners and immoralities of life:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That no person or persons whatsoever, shall keep open his, her or their shop, warehouse, or workhouse, nor shall, upon land or water, do any manner of labour, business or work (works of necessity and charity only excepted) nor be present at any concert of musick, dancing, or any publick diversion, shew or entertainment, nor use any sport, game, play, or recreation on the Lord's day, or any part thereof, upon penalty of a sum not exceeding *twenty shillings*, nor less than *ten shillings* for every offence.

Be it further enacted by the authority aforesaid, That no traveller, drover, waggoner, teamster, or any of their servants, shall travel on the Lord's day, or any part thereof, (except from necessity or charity) upon the penalty of a sum not exceeding *twenty shillings* nor less than *ten shillings*.

Be it further enacted, That no vintner, retailer of strong liquors, innholder, or other person keeping a house of publick entertainment shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others, not being travellers, strangers or lodgers, in such houses, to abide and remain in their houses, yards, orchards or fields, drinking or spending their time, either idly or at play, or doing any secular business on the Lord's day, or any part thereof, on penalty of *ten shillings*, payable by such vintner, retailer or innholder, or person keeping such house of entertainment, for each person so entertained or suffered; and every person so drinking or abiding (except as aforesaid) shall pay a fine not exceeding *ten shillings* nor less than *five shillings*; and every such licensed person, upon any conviction after the

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firſt, ſhall pay a fine of *twenty ſhillings*, and having been three times convicted, ſhall be debarred from renewing his licenſe forever after.

And although it is the ſenſe of this court, that the time commanded in the ſacred ſcriptures to be obſerved as holy time, includes a natural day, or twenty four hours; yet whereas there is a difference of opinion concerning the beginning and ending of the Lord's day, among the good people of this Commonwealth, and this court being unwilling to lay any reſtrictions which may ſeem unneceſſary or unreaſonable to perſons of ſobriety and conſcience:

Be it therefore enacted by the authority aforeſaid, That all the foregoing regulations, reſpecting the due obſervation of the Lord's day, ſhall be conſtrued to extend to the time included between the midnight preceding and the ſun ſetting of the ſame day.

Be it enacted by the authority aforeſaid, That no perſon ſhall be preſent at any concert of muſick, dancing, or other publick diverſion, nor ſhall any perſon or perſons, uſe any game, ſport, play or recreation, on the land or water, on the evening next preceding or ſucceeding the Lord's day, on pain of *ten ſhillings*, for each offence; and no retailer, innholder or perſon licenſed to keep a publick houſe, ſhall entertain or ſuffer to remain, or be in their houſes or yards, or other places appurtenant, any perſon or perſons (travellers, ſtrangers or lodgers excepted) drinking or ſpending their time on the ſaid evenings, on penalty of *ten ſhillings*, for each offence.

And whereas the publick worſhip of Almighty God is eſteemed by chriſtians an eſſential part of the due obſervance of the Lord's day, and requires the greateſt decency and reverence for a due performance of the ſame;

Be it therefore enacted, That any perſon being able of body and not otherwiſe neceſſarily prevented, who ſhall, for the ſpace of three months together, abſent him or herſelf, from the publick worſhip of God, on the Lord's day (*provided*, there be any place of worſhip, at which he or ſhe can conſcientiouſly and conveniently attend) ſhall pay a fine of *ten ſhillings*.

Be it further enacted by the authority aforeſaid, That if any perſon ſhall, on the Lord's day, within the walls of any houſe of publick worſhip, behave rudely or indecently, he or ſhe ſhall pay a fine not more than *forty ſhillings* nor leſs than *five ſhillings*.

And be it enacted by the authority aforeſaid, That if any perſon or perſons, either on the Lord's day, or at any other time, ſhall wilfully interrupt or diſturb any aſſembly of people met for the publick worſhip of God, within the place of their aſſembling, or out of it, he or they ſhall ſeverally pay a fine not exceeding *ten pounds*, nor leſs than *twenty ſhillings*.

Be

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Be it further enacted by the authority aforesaid, That no person shall serve or execute any civil process from midnight preceding to midnight following the Lord's day; but the service thereof shall be void, and the person serving the same, shall be as liable to answer damages to the party aggrieved, as if he had done the same without any such civil process.

And be it further enacted, That the Tythingmen chosen, or which shall be chosen in the several towns and districts, within this Commonwealth, shall be held and obliged to inquire into and inform of all offences against this act; and all such Tythingmen as shall be hereafter chosen, shall take the following oath.

You being chosen a Tythingman for the town of , for the year ensuing, and until another shall be chosen in your room, do solemnly swear that you will diligently attend to, and faithfully execute the duties of the said office, without partiality, and according to your best discretion and judgment. *So help you GOD.*

And every such Tythingman is hereby authorised and empowered to enter into any of the rooms and other parts of an inn, or publick house of entertainment, on the Lord's day, and the evening preceding and succeeding; and if such entrance shall be refused to any Tythingman, the landlord or licensed person shall forfeit the sum of *forty shillings*, for each and every offence. And the said Tythingmen are hereby further authorised and empowered, within their respective towns to examine all persons whom they shall have good cause from the circumstances thereof, to suspect of unnecessarily travelling as aforesaid on the Lord's day, and to demand of all such persons the cause thereof, together with their names and places of abode; and if any person shall refuse to give answer, or shall give a false answer to such demand, he shall pay a fine not exceeding *five pounds* nor less than *twenty shillings*; and if the reason given for such travelling shall not be satisfactory to such Tythingman, he shall enter a complaint against the person travelling, before a Justice of the Peace in the county where the offence is committed, if such person lives in such county, otherwise shall give information thereof to some Grand Juryman, to be by him laid before the Grand Jury, for their consideration and presentment.

And be it further enacted, That the oath of any Tythingman shall be deemed full and sufficient evidence, in any trial for any offence against this act, unless in the judgment of the Court or Justice, the same shall be invalidated by other evidence that may be produced.

And be it further enacted, That the special authority given by this act to Tythingmen, for preventing the breaches thereof, shall not be construed or understood to exempt any Sheriff, Grand Jurors, constables or other officers or persons whatsoever from any obligation

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obligation or duty, to cauſe this act to be put in execution, but they ſhall be held to take due notice and proſecute all breaches thereof, ſuch ſpecial authority notwithſtanding.

And be it further enacted, That all the penalties and fines incurred and paid for any of the offences aforeſaid, ſhall be for the uſe of the Commonwealth: And that all ſaid offences, the penalties againſt which exceed *forty ſhillings*, ſhall be proſecuted by preſentment of the Grand Jury, before the Court of General Seſſions of the Peace in the county wherein the offence may be committed: But all offences, the penalty whereof does not exceed *forty ſhillings* (except the offender lives out of the county in which the offence may be committed) ſhall be proſecuted by complaint before a Juſtice of the Peace in ſuch county: But when the offender lives out of ſuch county, he may be proſecuted by preſentment as aforeſaid, although the penalty does not exceed *forty ſhillings*.

And be it further enacted by the authority aforeſaid, That all laws heretofore made, ſo far as they relate to the due obſervance of the Lord's day, be and hereby are repealed and declared null and void.

[This act paſſed *March* 8, 1792.]

An Act in addition to an Act entitled "An Act providing for the due obſervation of the Lord's Day, and repealing the ſeveral laws heretofore made for that purpoſe."

Whereas in the firſt, ſecond, third and fifth enacting clauſes in the ſaid act, the ſeveral penalties annexed to the ſeveral offences therein deſcribed, are found to be too low, and not ſo appropriated as to anſwer the purpoſes intended thereby: Therefore,

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That the penalties aforeſaid be, and the ſame hereby are increaſed as follows, to wit: The penalties annexed to the offences deſcribed in the ſaid firſt and ſecond enacting clauſes ſhall be not more than ſix dollars and ſixty-ſix cents, nor leſs than four dollars for each offence. And the penalties of ten ſhillings annexed to the offences firſt mentioned in ſaid third enacted clauſe, ſhall be increaſed to three dollars and thirty-three cents; and the ſaid fine in the ſame clauſe not exceeding ten ſhillings nor leſs than five, ſhall be not leſs than two dollars nor more than four for each offence; and the ſaid fine of twenty ſhillings laſt mentioned in the ſame clauſe, ſhall be ſix dollars and ſixty-ſix cents for each offence; and the ſaid fines of ten ſhillings, twice mentioned in ſaid fifth enacting clauſe, ſhall be for each offence, in each caſe, three dollars and thirty-three cents.

SECT. 2. *Be it further enacted*, That the fines and penalties aforeſaid ſhall be, one moiety thereof to the town wherein the offence ſhall be committed, and the other moiety thereof to any perſon or perſons who ſhall inform and ſue for the ſame; to be recovered by a complaint to a Juſtice of the Peace, with coſts of ſuit;

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ſuit; or the ſaid fines may be recovered by preſentment of the Grand Jury before the Court of General Seſſions of the Peace in the county wherein the offence or offences ſhall be committed, and when thus recovered, ſhall enure to the town wherein the offence be committed.

SECT. 3. *And be it further enacted*, That no owner or driver of any hackney carriage belonging to the town of Boſton, ſhall drive ſaid hackney carriage into or from ſaid town on the Lord's day, without firſt having obtained a certificate of permiſſion from ſome Juſtice of the Peace within ſaid town for himſelf and every paſſenger by him ſo carried, on the pain and penalty of forfeiting his licenſe for ſetting up, keeping and driving ſaid hackney carriage for the term of three years next after committing ſuch offence.

[This act paſſed *March* 11, 1797.]

FORM

Of a Complaint againſt a Perſon who violates the Act providing for the due obſervation of the Lord's Day.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath, A. B. of, &c. That E. F. of, &c. on the day of , being the Lord's day, at aforeſaid, with force and arms,

1.

Did keep open his ſhop, ware houſe or work houſe.

2.

Did labour (or did *here inſert the kind of* buſineſs or work, &c.) the ſame not being a work of neceſſity or charity.

3.

Was preſent at a concert of muſick, dancing or publick diverſion, ſhew or entertainment, at the houſe of , in ſaid .

4.

Did, &c. (uſe certain ſport, game, play or recreation) viz. [*the kind ſhould be here deſcribed.*]

5.

Being a (*or* the ſervant of a) traveller, drover, waggoner or teamſter, did travel on ſaid day.

6.

Being a vintner, retailer of ſtrong liquors, innholder, or other perſon keeping a houſe of entertainment, did entertain G. H. an inhabitant of ſaid , not being a traveller, ſtranger or lodger in his houſe there, and did ſuffer the ſaid G. H. (*or* did ſuffer G. H. an inhabitant of ſaid , not being a traveller, ſtranger or lodger) to abide and remain in the houſe (yard, orchard or field,

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as the case may be) of him the said E. F. drinking and spending his time idly, or at play, or doing such and such secular business.

7.

Not being a traveller, stranger or lodger, did abide and remain in the house, or in the yard, orchard or field of , a vintner, innholder, retailer of strong liquors, or one who keeps a house of publick entertainment, *(as the case may be)* drinking and spending his time idly, or at play, or doing certain secular business; viz. [*here describe it.*]

8.

Did, within the walls of the Rev. 's meeting house, being a house of publick worship in said , behave rudely and indecently.

9.

Did wilfully interrupt and disturb an assembly or people then and there at *(such a house)* met for the publick worship of God,* against the peace and dignity of the Commonwealth, and contrary to a law of the same, entitled "An Act providing for the due observation of the Lord's Day, and repealing the several laws heretofore made for that purpose." A. B.

Dated, &c.

* NOTE.—*This is an offence against the law, although committed on any other day.*

Another.

10.

To S. T. Esq. one of the Justices of the Peace for the county of D.

Complains upon oath A. B. of, &c. That E. F. of, &c. at said , on the evening of the day of , being the evening next preceding or succeeding the Lord's day, was present at a concert of musick, dancing or other publick diversion, held at the house of ; *or* did, &c. use such or such game, sport, play or recreation, [*the kind of game, &c. should be here described.*] against the peace, &c. *(as in the preceding orm.)*

Dated, &c. A. B.

Another.

11.

To S. T. Esq. one of the Justices of the Peace for the county of D.

Complains upon oath A. B. of, &c. That E. F. of, &c. being able of body, and not otherwise necessarily prevented, did, for the space of three months together, at , viz. from the day of , to the day of last, absent himself from the publick worship of God on the Lord's day, although there was at said a place of worship, at which, in the judgment of your complainant,

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complainant, he could conſcientiouſly and conveniently attend, againſt the peace, &c. *(as before.)*

Dated, &c. A. B.

N. B. Previous to the iſſuing of a warrant on any of the foregoing complaints, the ſame ſhould be ſworn to, and a certificate thereof made thereon as follows, viz.

D——ſſ. 18 The above named A. B. made oath to the truth of the foregoing complaint.

Before me, S. T. Juſtice of the Peace.

LOST GOODS.

THE finder of any loſt goods or ſtray beaſt, is obliged by law, within two months, and before any uſe or improvement thereof is made to its diſadvantage, to procure from the town clerk or a Juſtice of the Peace, a warrant directed to two ſuch diſintereſted judicious perſons as the clerk or Juſtice ſhall appoint, returnable into the town clerk's office in ſeven days from the date, to appraiſe and value the goods or ſtray beaſt upon oath, at the true value thereof in money, according to their beſt judgment, and to adminiſter an oath unto them for that purpoſe accordingly, which warrant and oath the clerk and Juſtice are reſpectively authoriſed to iſſue and adminiſter.

FORM

Of a Warrant to appraiſe Loſt Goods or Stray Beaſts.

D——ſſ.

To E. B. of , and C. D. of , two diſintereſted and judicious perſons, Greeting.

By virtue of the power and authority to me given, in and by a law of the Commonwealth, entitled "An Act reſpecting Loſt Goods and Stray Beaſts," I do hereby appoint you to appraiſe upon oath, at the true value thereof in money, according to your beſt ſkill and judgment, [*here mention the goods or beaſts found*] found by E. F. at . Having performed this ſervice, you are to make return of this warrant into the town clerk's office of ſaid , within ſeven days from the date hereof.

Given under my hand and ſeal this day of , A. D. 18 .

S. T.

Oath.

D——ſſ. 18

The above named E. B. and C. D. perſonally appeared and made oath, that they would faithfully and impartially perform the ſervice to which they are appointed by the above warrant.

Before me, S. T. Juſtice of the Peace.

LUNATICKS.

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LUNATICKS.— See the article BEGGARS, &c.

MARINERS.—See APPENDIX.

MARRIAGES.

An Act for the orderly Solemnization of Marriages.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That every Juſtice of the Peace, within the county where he reſides, and every ſtated and ordained miniſter of the goſpel in the town, diſtrict, pariſh or plantation where he reſides, ſhall be and hereby is authoriſed and empowered to ſolemnize marriages between perſons that may lawfully enter into that relation, when one or both of the perſons to be married belong to, or are reſidents in the county where ſuch Juſtice reſides, or one or both of them are inhabitants of, or reſidents in the town, diſtrict, pariſh or plantation where ſuch miniſter reſides.

And be it further enacted by the authority aforeſaid, That when any ſettled and ordained miniſter of the goſpel is himſelf to be married, it ſhall be lawful for any other ſuch miniſter, within the ſame county, to marry the ſaid miniſter. And alſo when any religious ſociety ſhall be deſtitute of a ſettled and ordained miniſter of the goſpel, in caſe there ſhall not be ſuch a miniſter within the town, diſtrict or plantation, in which ſuch religious ſociety is, it ſhall be lawful for any ſuch miniſter, within the ſame county, to join any perſon of ſuch town, diſtrict or plantation, in marriage, provided ſuch marriage be ſolemnized in the town, diſtrict or plantation where one of the parties to be married ſhall reſide.

And be it further enacted by the authority aforeſaid, That all perſons deſiring to be joined in marriage, ſhall have ſuch their intentions publiſhed at three publick religious meetings, on different days, at three days diſtance excluſively, at leaſt, from each other, in the town or diſtrict wherein they reſpectively dwell, or ſhall have their intentions of marriage poſted up by the clerk of ſuch town or diſtrict, by the ſpace of fourteen days, in ſome publick place, within the ſame town or diſtrict, fairly written, and ſhall alſo produce to the Juſtice or miniſter, who ſhall be deſired to marry them, a certificate of ſuch publiſhment, under the hand of the clerk of ſuch town or diſtrict reſpectively; and alſo, that the intention of marriage hath been entered with him fourteen days prior to the date of ſuch certificate; and where a male, under twenty-one years, or a female under eighteen years of age, is to be married, the conſent of the parent, guardian or other perſon, whoſe immediate care and government ſuch party is under, if within the Commonwealth, ſhall be firſt had to ſuch marriage.

And

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And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided*, That in regard to any plantation in the counties of *Cumberland* and *Lincoln*, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles distant from such next adjoining town or district, any Justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate.

And be it further enacted by the authority aforesaid, That if at any time the bans of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two Justices of the same county, *quorum unus*; *Provided* the person forbidding the bans shall, within seven days after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon; unless the said Justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said Justices shall determine, that the reasons assigned by the person forbidding the said bans, were not supported by the laws of the Commonwealth, then the person so forbidding, shall pay all the cost that may have arisen in consequence of such objection; and the said Justices shall make up judgment and issue execution accordingly.

And be it further enacted by the authority aforesaid, That if any person shall deface or pull down any publishment posted up in writing as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of *twenty shillings*, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace, or minister, shall, otherwise than is expressly allowed and authorised by this act, join any persons in marriage, they shall severally forfeit and pay the sum of *fifty pounds*; two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or

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by the parent, guardian or other perſon under whoſe immediate care and government either of the parties were at the time of ſuch marriage; and every Juſtice or miniſter, againſt whom ſuch recovery ſhall be had, is hereby forbidden from joining perſons in marriage forever after. And in caſe a perſon forbid as aforeſaid, or any other perſon whatever, not authoriſed and empowered to ſolemnize marriages by this act, ſhall join any perſons in marriage, and be convicted thereof in the Supreme Judicial Court, upon preſentment or indictment, he ſhall ſtand one hour in the pillory, and be ſubjected to pay a fine, at the diſcretion of the court, to the uſe of the Commonwealth, not exceeding *one hundred pounds*, nor leſs than *eighty pounds*.

And be it further enacted, That every Juſtice and miniſter ſhall make and keep a particular record of all marriages ſolemnized before them reſpectively; and in the month of *April*, yearly and every year, ſhall make a return to the clerk of the town, diſtrict or plantation in which he lives, certifying the names (both chriſtian names and ſir names) of all the perſons who have been by them reſpectively joined together in marriage within the year then laſt paſt, if any ſuch have been by them ſo joined together.

[Here follows, in the original act, a clauſe requiring Juſticesor miniſters to certify that they have not joined any perſon in marriage when this is the caſe; but this clauſe has been ſince repealed, and is therefore left out]

And if any Juſtice or miniſter ſhall neglect to make ſuch return, within the month of *April*, annually, the clerk of the town, diſtrict or plantation, where ſuch delinquent Juſtice or miniſter lives, ſhall without delay, certify ſuch neglect to the clerk of the Court of General Seſſions of the Peace of the ſame county, who ſhall lay the ſame before the ſaid court, at their next ſeſſion; and the perſon ſo neglecting ſhall be cited to appear before the ſaid court, to anſwer for ſuch neglect; and if no ſufficient reaſon ſhall be aſſigned therefor, he ſhall be conſidered and adjudged diſqualified for joining perſons in marriage for a term of time, not exceeding ten years, at the diſcretion of the Juſtices of the ſaid court. And every town and diſtrict clerk ſhall duly and ſeaſonably record all marriages, ſo certified to him, as aforeſaid, and ſhall alſo return a liſt or copy thereof to the clerk of the Court of General Seſſions of the Peace of the ſame county, ſome time in the month of *May*, yearly and every year, to be there recorded, upon penalty of forfeiting *twenty ſhillings* for each neglect: And it ſhall be the duty of each clerk of the ſeſſions to proſecute for every ſuch neglect, in the county to which he belongs. And every clerk of the ſeſſions ſhall record all ſuch returns of marriages at large, in a book to be kept for that purpoſe, and no other, under the ſame penalty for each neglect.

And be it further enacted, That no perſon by this act authoriſed to marry, ſhall join in marriage any white perſon with any negro, Indian

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Indian or mulatto, on penalty of the ſum of *fifty pounds*; two third parts thereof to the uſe of the county wherein ſuch offence ſhall be committed, and the reſidue to the proſecutor, to be recovered by the treaſurer of the ſame county, in manner as aforeſaid; and all ſuch marriages ſhall be abſolutely null and void.

And be it further enacted by the authority aforeſaid, That any marriages which have been, or hereafter may be had and ſolemnized, among the people called quakers, or friends, in the manner and form uſed and practiſed in their ſocieties, ſhall be good and valid in law, any thing in this act to the contrary notwithſtanding: And the clerk or keeper of the records of the meeting wherein ſuch marriage ſhall be had and ſolemnized, ſhall once a year make a certificate, under his hand, of all marriages had and ſolemnized in the ſociety or meeting to which he belongs, and ſhall deliver the ſame to the clerk of the Court of General Seſſions of the Peace of the county wherein the marriages have been had and ſolemnized, under the penalty of *twenty ſhillings*, for each neglect. All fines, not particularly appropriated, ſhall be to the uſe of the proſecutor. And all former laws relating to the ſolemnization of marriages are hereby repealed.

This act to be in force from and after the laſt day of *December*, one thouſand ſeven hundred and eighty-ſix, and not ſooner.

[This act paſſed *June* 22, 1786.]

N. B. No man or woman ſhall intermarry within the degrees hereafter named, *that is to ſay*;

No man ſhall marry his	No woman ſhall marry her
Mother,	Father,
Grandmother,	Grandfather,
Daughter,	Son,
Son's Daughter,	Son's Son,
Daughter's Daughter,	Daughter's Son,
Stepmother,	Stepfather,
Grandfather's Wife,	Grandmother's Huſband,
Son's Wife,	Daughter's Huſband,
Son's Son's Wife,	Son's Daughter's Huſband,
Daughter's Son's Wife,	Daughter's Daughter's Huſband,
Wife's Mother,	Huſband's Father,
Wife's Grandmother,	Huſband's Grandfather,
Wife's Daughter,	Huſband's Son,
Wife's Son's Daughter,	Huſband's Son's Son,
Wife's Daughter's Daughter,	Huſband's Daughter's Son,
Siſter,	Brother,
Brother's Daughter,	Brother's Son,
Siſter's Daughter,	Siſter's Son,
Father's Siſter,	Father's Brother,
Mother's Siſter.	Mother's Brother.

And

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And if any man or woman ſhall intermarry within the degrees aforeſaid, every ſuch marriage ſhall be deemed, taken and adjudged inceſtuous, and ſhall be null and void; and the iſſue of all ſuch inceſtuous marriages ſhall be deemed, taken and adjudged illegitimate, and be ſubjected to all the legal diſabilities of ſuch iſſue.

FORMS.

The joining of perſons together in marriage, is moſt commonly performed (and generally perhaps with more propriety and ſolemnity) by miniſters of the goſpel; but as the foregoing law gives equal power to Juſtices of the Peace, in this reſpect, I think it not amiſs, for the uſe of ſuch Juſtices as may conſider this book to be imperfect without it, to inſert a conciſe form for this purpoſe.

I.

To Solemnize a Marriage.

Being now aſſembled in the preſence of God, to join together this man and this woman, in the ſacred bans of matrimony, it is proper for us to reflect that marriage is an honourable eſtate, being inſtituted by God, in the time of man's innocency, and ſignifying unto us the myſtical union there is betwixt Chriſt and his Church. It was honoured by the preſence of Chriſt, and ſanctified by the firſt miracle which he wrought in Cana of Gallilee, and it is commended by St Paul, as being honourable among all men. It is not therefore to be entered into unadviſedly, lightly or wantonly, but reverently, diſcreetly, ſoberly and in the fear of God, duly conſidering the cauſes for which it was ordained, and the important duties incumbent on thoſe who engage in its ſolemn covenants.

It appearing (by the certificate of , clerk of the town of) that the intention of marriage between theſe perſons, has been entered and publiſhed according to law, I will now proceed to ſolemnize the ſame.

A. B the woman whom you now have by the hand, you take to be your wedded wife; and you promiſe by divine aſſiſtance to love and honour her, to comfort and cherish her in every ſituation of her life, and attaching yourſelf to none other, that you will cleave unto her only, ſo long as you both ſhall live.

C. D. the man whom you now have by the hand, you take to be your wedded huſband; and you promiſe by divine aſſiſtance to love, honour and obey him, to comfort and cheriſh him in every ſituation of his life, and attaching yourſelf to none other, that you will cleave unto him only, ſo long as you both ſhall live.

If each anſwer in the affirmative, then ſay,

I then pronounce you to be huſband and wife; married according to the laws of this Commonwealth; and I do implore for you

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you the conſtant aid of divine grace, that you may be enabled to live together as ſuch, agreeably to the vows which you have made; that you may be mutual bleſſings to each other while you continue in this world, and ſubjects of eternal happineſs in that which is to come.

Thoſe whom God hath joined together, let no man put aſunder

Although *ſome* may object to this form, as being too ſhort; let it be conſidered that on that account it may to *others* be the more agreeable, and that any Juſtice may enlarge, or alter it, as he ſhall judge proper.

II.

Application to two Juſtices, quorum unus, when the Bans of Matrimony are forbidden.

To S. T. and J. F. two of the Juſtices of the Peace within and for the county of D. *quorum unus.*

Shews E. B. of , That L T. clerk of the town of , having publiſhed the intentions of marriage between C. D. of and E F. of , and that he hath forbidden the bans of matrimony and aſſigned the reaſons thereof in writing, which he left with the ſaid clerk on the day of , in order that he might forbear iſſuing a certificate of ſuch publiſhment until the matter can be duly inquired into.

He therefore applies to your Honours for your determination thereon, agreeably to a law of the Commonwealth in ſuch caſes made and provided.

Dated, &c. E. B.

III.

Summons thereon.

To of

Whereas E. B. of , hath repreſented to us the ſubſcribers, two of the Juſtices of the Peace within and for the ſaid county of D. *quorum unus*, That L. T. clerk of the town of , hath publiſhed the intentions of marriage betweeen you , and hath forbidden the bans of matrimony, and aſſigned the reaſons thereof in writing, which he left with the ſaid clerk on the day of , and hath applied to us for our determination thereon.

This is therefore, to notify you to appear before us, on the day of at , when and where we ſhall proceed to make inquiry into the ſubject matter of ſaid application, and determine upon the reaſons aſſigned by the ſaid A. B. as aforeſaid, and at which time and place you may have opportunity to be heard thereon.

Given under our hands this day of , A. D. 18

S. T.
J. F.
IV.

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IV.

Determination.

To all whom it may concern.

(L.S.) Whereas E. B. of , by his application to us the subscribers, two of the Justices of the Peace within and for the county of D. dated , hath represented, That the intentions of marriage between C. D. and E F. have been published by the clerk of the town of , that he hath forbidden the bans of matrimony, and assigned the reasons thereof, which he left with said clerk, on the day of , a copy whereof he hath delivered to us, and prayed for our determination thereon.

We therefore, after having notified the said C. D. to be present, that he might have opportunity to be heard thereon (but who did not attend, *or*) and heard the parties, have fully considered the reasons aforesaid, and thereon have determined and do hereby determine that the same are (*or* are not) supported by the laws of the Commonwealth.

In testimony whereof we hereunto set our hands and seals the day of , A. D. 18

S. T.
J. F.

V.

Certificate of Marriages.

To J. F. Clerk of the town of M.

The following is a list of persons whom I have joined together in marriage the year past, viz.

Date.

18 E. B. of with C. D. of
E. F. of with G. H. of , &c.

Given under my hand this day of *April*, A. D. 18

S. T.

Or,

To J. F. Clerk of the town of M.

I hereby certify that I have not joined together any persons in marriage during the course of the year past.

Dated, &c. S. T.

MEETINGS.

By an Act passed March 10, 1784, *entitled* "*An Act for the better managing Lands, Wharves, and other Real Estate, lying in common,*" *it is enacted,*

THAT when and so often as any five, or a major part of the proprietors of lands, wharves, or other real estate lying in common in any part of the Commonwealth, shall judge a proprietors'

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tors' meeting to be neceſſary, they may make a written application to a Juſtice of the Peace through the Commonwealth, or to a Juſtice of the Peace within the county where ſuch eſtate lies, for a warrant for the calling of a meeting, expreſſing the time, place and occaſion thereof; and ſuch Juſtice is hereby empowered to grant a warrant for ſuch meeting accordingly, directed to one of the proprietors aſking the ſame, or to the proprietor's clerk, requiring him to notify the proprietors of the meeting, and the time, place, and occaſion of the ſame.

To enable the proprietors of lands encloſed and fenced in one general field, to call meetings for the purpoſe of making ſuch rules, and adopting ſuch modes of improvement as they ſhall think juſt and equitable, and moſt for the general benefit, it is in the power of any Juſtice of the Peace for the county where ſuch lands lie, upon application to him made by any two of the proprietors of ſuch general fields, to iſſue out a warrant for ſuch meeting; which warrant and alſo the notification of the meeting ſhall expreſs the buſineſs thereof, and ſhall be conducted in the ſame manner as thoſe for calling a meeting of proprietors of common lands preſcribed by "An Act relating to Lands, Wharves and other Real Eſtate undivided and lying in common," paſſed *March* 10, 1784.

PROPRIETORS OF TOWNS.

In caſe the ſelectmen of any town ſhall unreaſonably deny to call a meeting upon any publick occaſion, any ten or more of the freeholders of ſuch town may apply to a Juſtice of the Peace within and for the ſame county, who is hereby authoriſed and empowered, to iſſue his warrant under his hand and ſeal, directed to the conſtable or conſtables of the town, if any ſuch there be, otherwiſe to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants, qualified to vote in town affairs, to aſſemble at ſuch time and place in the ſame town, as the ſaid Juſtice ſhall in his ſaid warrant direct, and for the purpoſe in the ſame warrant expreſſed.

FORMS.

I.

Application for a Proprietors' Meeting.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

We the ſubſcribers, five (*or* a major part) of the proprietors of , &c. judging a proprietors' meeting to be neceſſary, do hereby requeſt you to iſſue a warrant for the calling of a meeting of ſaid proprietors, to be holden at on , at o'clock in the noon, to act on the following articles, viz.

1. To,

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1. To, &c. A. B.
2. To, &c. C. D.
E. F.
Dated, &c. G. H.
I K.

D——ff. To A. B. one (*or* Clerk) of the Proprietors of, &c.

(L.S.) You are hereby required in the name of the Commonwealth of Maſſachuſetts, to notify the proprietors of , &c. in manner as the law directs, to meet at the time and place, and for the purpoſes mentioned in the foregoing application.

Given under my hand and ſeal this day of , A. D. 18

S. T. } Juſtice of the Peace for the ſaid county of D.

Notification.

In purſuance of the foregoing warrant to me directed, I do hereby notify the proprietors of , to meet at the time and place mentioned in the foregoing application, and for the purpoſes therein expreſſed.

Dated, &c. A. B.

II.

Application for a Town Meeting, when the Selectmen unreaſonably refuſe to call one.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

The ſubſcribers, freeholders and inhabitants of the town of in ſaid county, ſhew, That application hath been made to E. F. G. H. and I. K ſelectmen of ſaid town, to call a meeting of the inhabitants thereof, duly qualified to vote in town meetings.

1. To ſee if the town will, &c.
2. To ſee, &c.

But they have unreaſonably denied to call a meeting for thoſe purpoſes. They therefore requeſt you would iſſue a warrant, as the law in ſuch caſes directs, for calling a meeting of ſaid inhabitants, for the purpoſes aforeſaid.

Dated, &c. Signed, A. B.
C. D. &c.

III.

Warrant thereon.

D——ff.

To W. H. one of the Conſtables of the town of in ſaid county, Greeting.

(L.S.) Whereas A. B. and nine (*or* more) others, freeholders of of the ſaid town of , have repreſented to me the ſubſcriber, one of the Juſtices of the Peace for ſaid county, that application hath been made to E. F. G. H. and I. K. ſelectmen of

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of said town, to call a meeting of the inhabitants of said town, qualified to vote in town meetings, to see if the town, &c. but they have unreasonably denied to call a meeting, and have therefore made application to me to call one for those purposes.

These are therefore, in the name of the Commonwealth of Massachusetts, to require you to notify the freeholders and other inhabitants of said town, qualified by law to vote in town affairs, to assemble at , on the day of next, at o'clock in the noon, for the purposes abovementioned.

Given under my hand and seal this day of , A. D. 18 .

S. T.

MILITIA.

An Act for regulating, governing, and training, the Militia of this Commonwealth.

WHEREAS Congress, on the eighth day of May, in the year of our Lord, one thousand seven hundred and ninety-two, passed the following Law—entitled,

"An Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States."

SEC. 1. *BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That each and every free, able-bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years, (except as is herein after excepted,) shall severally and respectively, be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, (except as before excepted) shall come to reside within his bounds; and shall without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen, so enrolled and notified, shall within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a prop-

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er quantity of powder and ball: or with a good rifle, knapſack, ſhot pouch and powder horn, twenty balls, ſuited to the bore of his rifle, and a quarter of a pound of powder; and ſhall appear ſo armed, accoutred, and provided, when called out to exerciſe, or into ſervice, except that when called out on company days to exerciſe only, he may appear without a knapſack. That the commiſſioned officers ſhall ſeverally be armed, with a ſword or hanger and eſpontoon, and that from and after five years, from the paſſing of this act, all muſkets for arming the militia, as herein required, ſhall be of bores ſufficient for balls of the eighteenth part of a pound.—And every citizen ſo enrolled, and providing himſelf with the arms, ammunition, and accoutrements, required as aforeſaid, ſhall hold the ſame, exempt from all ſuits, diſtreſſes, executions, or ſales, for debt or for the payment of taxes.

SEC. 2. *And be it further enacted*, That the Vice-Preſident of the United States; the officers, judicial, and executive, of the government of the United States; the members of both Houſes of Congreſs, and their reſpective officers; all cuſtom-houſe officers, with their clerks; all poſt officers, and ſtage drivers, who are employed in the care and conveyance of the mail of the poſt office of the United States; all ferrymen, employed at any ferry on the poſt road; all inſpectors of exports; all pilots; all mariners actually employed in the ſea ſervice of any citizen or merchant within the United States; and all perſons who now are, or may hereafter be exempted by the laws of the reſpective States ſhall be, and are hereby exempted from militia duty, notwithſtanding their being above the age of eighteen and under the age of forty-five years.

SEC. 3. *And be it further enacted*, That within one year after the paſſing of this act, the militia of the reſpective States ſhall be arranged into diviſions, brigades, regiments, battalions, and companies as the legiſlature of each State ſhall direct; and each diviſion, brigade, and regiment, ſhall be numbered at the formation thereof; and a record made, of ſuch numbers, in the adjutant-general's office in the ſtate; and when in the field, or in ſervice in the ſtate, each diviſion, brigade, and regiment, ſhall reſpectively take rank according to their numbers, reckoning the firſt or loweſt number, higheſt in rank. That, if the ſame be convenient, each brigade ſhall conſiſt of four regiments; each regiment of two battalions; each battalion of five companies; each company of ſixty-four privates. That the ſaid militia ſhall be officered by the reſpective ſtates, as follows: To each diviſion one major-general and two aids-de-camp, with the rank of major; to each brigade one brigadier-general, with the brigade inſpector, to ſerve alſo as brigade major with the rank of a major; to each regiment, one lieutenant, one colonel commandant; and to each battalion one major; to each company, one captain, one lieutenant, one enſign, four ſergeants, four corporals, one drummer and one fifer or bugler.

That

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That there shall be a regimental staff, to consist of one adjutant, and one quarter-master, to rank as lieutenants; one pay-master, one surgeon, and one surgeon's mate; one sergeant-major; one drum-major, and one fife-major.

Sec. 4 *And be it further enacted*, That out of the militia enrolled as is herein directed, there shall be formed, for each battalion, at least one company of grenadiers, light infantry, or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse; there shall be to each company of artillery one captain, two lieutenants, four serjeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges: and each private or matros shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four serjeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses, of at least fourteen hands an half high, and to be armed with a sword, and a pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mailpillion and valise, holsters, and a breastplate and crupper, a pair of boots and spurs, a pair of pistols, a sabre and a cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the state, not exceeding one company of each to a regiment, nor more in number, than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

Sec. 5. *And be it further enacted*, That each battalion and regiment shall be provided with the state and regimental colours, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the legislatures of the respective States shall direct.

Sec. 6. *And be it further enacted*, That there shall be an adjutant general appointed in each State, whose duty it shall be, to distribute all orders from the commander in chief of the State, to the several corps; to attend all publick reviews, when the commander in chief of the State shall review the militia or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline, established by this act; to furnish blank forms of different returns, that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different

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ent corps throughout the ſtate, returns of the militia under their command, reporting the actual ſituation of their arms, accoutrements and ammunition, their delinquencies, and every other thing that relates to the general advancement of good order and diſcipline: all which the ſeveral officers of the diviſions, brigades, regiments, and battalions, are hereby required to make, in the uſual manner, ſo that the ſaid adjutant general may be duly furniſhed therewith: from all which returns he ſhall make proper abſtracts, and lay the ſame, annually, before the commander in chief of the State.

Sec. 7. *And be it further enacted*, That the rules of diſcipline, approved and eſtabliſhed by Congreſs, in their reſolution, of the 29th of March, one thouſand ſeven hundred and ſeventy-nine, ſhall be the rules of diſcipline to be obſerved by the militia throughout the United States, except ſuch deviations from the ſaid rules, as may be rendered neceſſary, by the requiſitions of this act, or by ſome other unavoidable circumſtances. It ſhall be the duty of the commanding officer, at every muſter, whether by battalion, regiment, or ſingle company, to cauſe the militia to be exerciſed and trained, agreeably to the ſaid rules of diſcipline.

Sec. 8. *And be it further enacted*, That all commiſſioned officers ſhall take rank according to the date of their commiſſions; and when two of the ſame grade bear an equal date, then their rank to be determined by lot, to be drawn by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment.

Sec. 9. *And be it further enacted*, That if any perſon, whether officer or ſoldier, belonging to the militia of any State, and called out into the ſervice of the United States, be wounded or diſabled while in actual ſervice, he ſhall be taken care of, and provided for, at the publick expenſe.

Sec. 10. *And be it further enacted*, That it ſhall be the duty of the brigade inſpector, to attend the regimental and battalion meetings of the militia compoſing their ſeveral brigades, during the time of their being under arms, to inſpect their arms, ammunition and accoutrements; ſuperintend their exerciſe and manœuvres, and introduce the ſyſtem of military diſcipline before deſcribed, throughout the brigade, agreeable to law, and ſuch orders as they ſhall, from time to time, receive from the commander in chief of the State; to make returns to the adjutant general of the State at leaſt once in every year, of the militia of the brigade to which he belongs, reporting therein the actual ſituation of the arms, accoutrements, and ammunition of the ſeveral corps, and every other thing, which in his judgment may relate to the government and the general advancement of good order and military diſcipline; and the adjutant general ſhall make a return of all the militia of the State, to the commander in chief of the ſaid State, and a duplicate of the ſame to the Preſident of the United States. And where-

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as ſundry corps of artillery, cavalry and infantry, now exiſt in ſeveral of the ſaid States, which by the laws, cuſtoms or uſages thereof, have not been incorporated with, or ſubject to the general regulations of the militia.

SEC. 11. *Be it further enacted*, That ſuch corps retain their accuſtomed privileges, ſubject nevertheleſs, to all other duties required by this act, in like manner with the other militia."

And whereas Congreſs, on the ſecond day of March, in the year of our Lord, one thouſand eight hundred and three, paſſed the following additional law, entitled,

"An Act in addition to an act entitled, An Act more effectually to provide for the national defence, by eſtabliſhing an uniform Militia throughout the United States."

Be it enacted by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled, That it ſhall be the duty of the adjutant general of the militia, in each ſtate, to make return of the militia in each to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the act, to which this is in addition, to the Preſident of the United States, annually, on or before the firſt Monday in January, in each year: and it ſhall be the duty of the ſecretary of war, from time to time, to give ſuch directions to the adjutant generals of the militia, as ſhall in his opinion be neceſſary to produce an uniformity in the ſaid returns, and he ſhall lay an abſtract of the ſame before Congreſs, on or before the firſt Monday of February, annually.

SEC. 2. *And be it further enacted*, That every citizen duly enrolled in the militia, ſhall be conſtantly provided with arms, accoutrements and ammunition, agreeably to the directions of the ſaid act, from and after he ſhall be duly notified of his enrolment; and any notice or warning to the citizen, ſo enrolled, to attend a company, battalion, or regimental muſter, or training, which ſhall be according to the laws of the ſtate, in which it is given for that purpoſe, ſhall be deemed a legal notice of his enrolment.

SEC. 3. *And be it further enacted*, That in addition to the officers provided for by the ſaid act, there ſhall be to the militia of each ſtate, one quarter-maſter-general; to each brigade, one quarter-maſter of brigade; and to each regiment, one chaplain.

Now therefore, the more effectually to carry the foregoing Laws, and the proviſions of the Conſtitution of this Commonwealth, into execution;

SEC. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That in addition to the exemptions made by the foregoing laws of the United States, the perſons afterwards in this ſection mentioned, be, and they are hereby either abſolutely or conditionally exempt-

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ed from militia duty, notwithſtanding their being of the age of eighteen, and under the age of forty-five years: and that the following be the perſons who are *abſolutely* exempted, viz. the Lieutenant Governour; the members of the Executive Council; the Judges of the Supreme Judicial Court, and their Clerks; the Judges of the Courts of Common Pleas, and their Clerks; the members of the Legiſlature, and its Officers, while the ſame is in ſeſſion; Judges of Probate; Juſtices of the Peace, holding commiſſions, qualified to act as ſuch; Regiſters of Probate; Regiſters of Deeds; the Attorney General, and the Solicitor General; the Secretary and Treaſurer of the Commonwealth, and their Clerks; Sheriffs; all Officers and Students of any College, actually reſident there; Preceptors of Academies, and School Maſters, while actually employed as ſuch; the Preſident, Profeſſors and Students of Theological Seminaries; Miniſters of the Goſpel, of every denomination; all Students of Divinity, who ſhall produce a certificate from an ordained Clergyman, of their being ſuch, and deliver the ſame to the Commanding Officer of the Company within whoſe bounds ſuch Student reſides; the firſt Clerk in the Adjutant and Quarter-Maſter General's Offices, reſpectively; all Officers who have held or may hereafter hold commiſſions in the army or Navy of the United State.; all Officers who have heretofore held or may hereafter hold commiſſions in the Militia of this State, or any other State of the United States, for the term of five years, or ſhall have been ſuperceded and diſcharged; the Officers and Guards employed at the State's Priſon, in Charleſtown; ſuch Engine men as ſhall annually produce, to the commanding officer of the company within whoſe bounds they reſide, certificates from the ſelectmen of their reſpective towns, that they have been legally appointed and are bound to perform the duties of Engine men; and every perſon of the religious denominations of *Quakers* and *Shakers*, who ſhall, on or before the firſt Tueſday of May, annually, produce a certificate to the commanding officer of the company within whoſe bounds ſuch *Quaker* or *Shaker* reſides; which certificate, ſigned by two or more of the elders or overſeers, (as the caſe may be) and counterſigned by the clerk of the ſociety with which ſuch *Quaker* or *Shaker* meets for religious worſhip, ſhall be in ſubſtance as follows:

"*We, the ſubſcribers, of the Society of the people called in the town of in the county of do hereby certify that is a member of our Society, and that he frequently and uſually attends with ſaid Society, for religious worſhip, and we believe is conſcientiouſly ſcrupulous of bearing arms.*

E F. *Clerk.* A. B. } *Elders* or *Overſeers*,"
C. D. } [as the caſe may be.]

And that the perſons aftermentioned in this ſection, notwithſtanding their being above the age of eighteen and under the age of forty-five years, be and they are hereby *conditionally* exempted from militia

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militia duty, as follows viz. Deputy-Sheriffs and Coroners; Phyſicians and Surgeons; all Officers who have heretofore held, or may hereafter hold, commiſſions in the militia of this ſtate, or any other ſtate of the United States, for a term leſs than five years; and all perſons who are, or may hereafter be, between the ages of forty and forty-five years, be, and they are hereby exempted from all militia duty, except that of keeping themſelves conſtantly furniſhed with the arms and equipments required by by the laws of the United States, and the duty of carrying or ſending them, on the firſt Tueſday of May annually, to the place of inſpection, or view of arms, of the company within whoſe bounds they may reſide, and in which they are enrolled, and the duty of attending elections of company officers, as herein after provided; *Provided however*, That the perſons conditionally exempted as aforeſaid, ſhall pay to the treaſurer of the town or diſtrict within which ſuch exempt reſides, two dollars, annually, and produce his receipt therefor to the commanding officer of the company, on or before the firſt Tueſday of May in each year; and the ſaid treaſurer ſhall keep an account of all monies ſo by him received, and ſuch money ſhall be expended by the ſelectmen of ſuch town or diſtrict for the ſole purpoſe of arming, equipping and uniforming the militia of ſuch town or diſtrict, as may not be conveniently able to arm, and equip, and uniform themſelves.

SEC. 2. *Be it further enacted*, That the Commander in Chief, with advice of council, be, and he hereby is authoriſed and empowered to organize and arrange the militia of this Commonwealth, conformably to the laws of the United States, and to make ſuch alterations therein, as, from time to time, may be deemed neceſſary. And that in future all applications or petitions for raiſing companies at large, and all applications or petitions for alterations in the arrangement of the militia, ſhall be made to the commander in chief; and he, by and with the advice and conſent of the council, is hereby authoriſed to grant ſuch petitions or applications, as to him may appear proper. *Provided however*, That the preſent organization and arrangement of the militia ſhall continue until the commander in chief, with advice of council, ſhall otherwiſe order.

SEC. 3. *Be it further enacted*, That the commiſſioned officers of the militia, named in the aforeſaid laws of the United States, ſhall be choſen and appointed in manner following:

The Major Generals — To be choſen by the Senate and Houſe of Repreſentatives, each having a negative on the other, and to be commiſſioned by the Commander in Chief.

The Brigadier Generals of Brigades — To be choſen by the written votes of the field officers of their reſpective brigades, and to be commiſſioned by the Commander in Chief.

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The Field officers of regiments and Battalions	To be chosen by the written votes of the captains and subalterns, of their respective regiments and battalions, to be commissioned by the Commander in Chief, according to the grades to which they may be elected.
The captains and Subalterns of Companies	To be chosen by the written votes of the non-commissioned officers and privates of their respective companies, of twenty-one years of age and upwards, and to be commissioned by the Commander in Chief, according to the grades to which they may be elected.
The Adjutant-General	To be appointed and commissioned by the Commander in Chief, with the rank of Brigadier General.
The Quarter-Master-General	To be appointed by the Commander in Chief, with advice of Council, and to be commissioned by the Commander in Chief, with the rank of Brigadier General.
The Aids-de-camp of the Major Generals	To be appointed by their respective major generals, and to be commissioned by the Commander in Chief, with the rank of major.
The Brigade Majors, and the Brigade Quarter-Masters	To be appointed by their respective brigadier generals, and to be commissioned by the Commander in Chief, with the rank of major.
The Adjutants, the Quarter-Masters, & the Paymasters of regiments	To be appointed by the lieutenant colonels commandants of their respective regiments, and to be commissioned by the Commander in Chief, with the rank of lieutenant.
The Chaplains, the Surgeons, and the Surgeon's Mates of regiments	To be appointed by the lieutenant colonels commandants of their respective regiments, and to be commissioned by the Commander in Chief, as such.

SEC. 4. *Be it further enacted*, That the non-commissioned officers, named in the aforesaid laws of the United States, shall be appointed in the manner following:

The non-commissioned Staff Officers of regiments	To be appointed by the lieutenant colonels commandants of their respective regiments, who shall grant them warrants accordingly.
The non-commissioned Officers of companies	To be appointed by the captains of their respective companies, who shall forthwith make return thereof to the commanding officer of their respective regiments or battalions, and they shall grant them warrants accordingly.

SEC. 5.

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SEC. 5. *Be it further enacted*, That in addition to the commiſſioned and non-commiſſioned officers above enumerated, the following officers and non-commiſſioned officers ſhall be appointed in the manner following:

Aids-de-camp to the Commander in Chief not to exceed four in number — To be appointed and commiſſioned by the Commander in Chief, with the rank of lieutenant colonel commandant.

A Judge-Advocate for each diviſion — To be nominated by the major general of each diviſion, and if approved by the Commander in Chief, to be commiſſioned by him with the rank of major.

An Adjutant and a Quarter-maſter to each battalion of artillery, and cavalry — To be appointed by the commanding officers of their reſpective battalions, and to be commiſſioned by the Commander in Chief, with the rank of lieutenant.

A Sergeant-Major to each regiment — To be appointed by the lieutenant colonels commandant of their reſpective regiments, who ſhall grant warrants accordingly.

A Quarter-maſter Serjeant to each battalion of artillery and cavalry — To be appointed by the commanding officers of their reſpective battalions, who ſhall grant warrants accordingly.

SEC. 6. *Be it further enacted*, That each major general be, and he hereby is authoriſed, and it ſhall be his duty from time to time to give all ſuch orders, as may be neceſſary, for filling by election, any vacancy or vacancies of brigadier general, field officer, captain or ſubaltern, which does now or may hereafter exiſt within his diviſion. And previous to any ſuch election, the electors ſhall have ten days notice thereof at leaſt; and all returns of elections, or of neglects or refuſals to elect, ſhall be made to the Commander in Chief, by the major generals in whoſe diviſions ſuch elections ſhall have been ordered; and in caſe of neglect or refuſal by the electors to elect any officer, when duly notified and ordered thereto, the Commander in Chief, with advice of Council, ſhall appoint ſome ſuitable perſon to fill ſuch vacancy. And all commiſſions ſhall paſs through the hands of the major generals to the officers within their reſpective diviſions who may be entitled to receive them. And every perſon, who ſhall be elected to any office as aforeſaid, and ſhall not within ten days, after he ſhall have been notified of his election, by the officer who preſided thereat (excepting in caſe of the choice of major general, who ſhall be allowed thirty days after he ſhall be notified by the Secretary of the Commonwealth) ſignify his acceptance thereof, ſhall be conſidered as declining to ſerve, and orders ſhall be forthwith iſſued for a new choice.

SEC. 7. *Be it further enacted*, That every officer duly commiſſioned in purſuance of the proviſions of this act, ſhall, before he enters upon the diſcharge of the duties of his office, take and ſubſcribe the following oaths and declarations:

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"I, A——— B———, do truly and ſincerely acknowledge, profeſs, teſtify and declare, that the Commonwealth of Maſſachuſetts is, and of right ought to be, a free, ſovereign and independent State; and I do ſwear, that I will bear true faith and allegiance to the ſaid Commonwealth, and that I will defend the ſame againſt traitorous conſpiracies, and all hoſtile attempts whatſoever, and that I do renounce and abjure all allegiance, ſubjection and obedience, to the King, Queen, or Government of Great Britain (as the caſe may be) and every other foreign power whatſoever, and that no foreign prince, perſon, ſtate or potentate, hath, or ought to have, any juriſdiction, ſuperiority, pre-eminence, authority, diſpenſing or other power, in any matter, civil, eccleſiaſtical or ſpiritual, within this Commonwealth, except the authority and power, which is or may be veſted by their conſtituents in the Congreſs of the United States; and I do further teſtify and declare, that no man, nor body of men, hath, or can have any right, to abſolve or diſcharge me from the obligation of this oath, declaration or affirmation, and that I do make this acknowledgment, profeſſion, teſtimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evaſion, or ſecret reſervation whatſoever *So help me God.*

"I, A—— B—— do ſolemnly ſwear and affirm, that I will faithfully and impartially diſcharge and perform all the duties incumbent on me, as ——— according to the beſt of my abilities and underſtanding, agreeably to the rules and regulations of the Conſtitution, and the laws of this Commonwealth. *So help me God.*

"I, A—— B—— do ſwear that I will ſupport the Conſtitution of the United States."

Which oaths and declarations as aforeſaid, each commiſſioned officer ſhall take and ſubſcribe before ſome Juſtice of the Peace, or before ſome general or field officer, who has previouſly taken and ſubſcribed them himſelf. And on the back of every commiſſion iſſued after the firſt day of May next, the following form of certificate of qualification ſhall be printed.

"This may certify that A—— B ——, commiſſioned as within, on this day of A. D. perſonally appeared, and took and ſubſcribed the oaths and declarations required by the conſtitution and laws of this Commonwealth, and a law of the the United States, to qualify him to diſcharge the duties of his office.

Before me ——— ———"

SEC. 8 *Be it further enacted*, That to every company there ſhall be a clerk, who ſhall be one of the ſerjeants, and he ſhall be appointed by the captain or commanding officer of the company, and on the back of his warrant as ſerjeant, the captain or commanding officer of the company, ſhall in writing certify, that he does thereby appoint him to be clerk of the company. And before ſuch clerk enters upon the duties of his clerkſhip, he ſhall be ſworn to the faithful

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faithful diſcharge of his duty, by taking the following oath, before the captain or commanding officer of the company to which he belongs, who is hereby authorized to adminiſter the ſame, viz.

"I, A. B. do ſolemnly ſwear, that I will faithfully and impartially do and perform all the duties incumbent on me, as clerk of the company to which I belong, according to the beſt of my abilities and underſtanding. *So help me God.*"

And the captain or commanding officer of the company ſhall, at the time of his adminiſtering ſaid oath, certify on the back of the warrant of the ſerjeant appointed to be clerk, that he was duly qualified, by taking the oath required by law. And it ſhall be the duty of the clerk to keep a fair and exact roll of the company, together with the ſtate of the arms and equipments, belonging to each man, which roll he ſhall annually reviſe, in the month of May, and correct the ſame, from time to time, as the ſtate of, and alterations in, the company may require; to regiſter all orders and proceedings of the company in the orderly book; to keep exact details of all drafts and detachments; to aſſiſt the commanding officer of the company, in the enrolment thereof, and alſo in enrolling all ſuch perſons without partiality or favour, liable to any military duty, coming to live within his company bounds, as he may from time to time be informed thereof; to diſtribute all company orders and notifications, which he may be required to do; to examine the equipments of the men, when ordered; to note all delinquencies, to ſue for and recover all fines and forfeitures, which are required by this act, to be ſued for and recovered by him; to keep accounts in the orderly book of all fines and forfeitures, and all other monies, collected by him, with the perſons' names, of whom they were collected, and of the times when, and for what offence, neglect, default or deficiency; which book ſhall not be alienated from the company, and ſhall always be open to the inſpection of any officer of the company.

SEC. 9. *Be it further enacted*, That every officer, non-commiſſioned officer and private of infantry, light infantry, cavalry, artillery, grenadiers and riflemen, ſhall conſtantly keep himſelf furniſhed and provided with the arms and equipments required by the laws of the United States before recited, except ſuch private as ſhall not be able ſo to provide himſelf. And no private ſhall be conſidered unable to provide himſelf with the arms and equipments required as aforeſaid, unleſs he ſhall produce, after the firſt day of April and before the firſt Tueſday in May annually, to the commanding officer of the company to which he belongs, a certificate of ſuch inability, from the overſeers of the poor of the town or diſtrict where he reſides. And the commanding officer of the company to whom ſuch private belongs, ſhall forthwith lay ſuch certificate before the ſelectmen of the town or diſtrict where ſuch private reſides. And it ſhall be the duty of ſuch ſelectmen, forthwith, at the expenſe of their reſpective towns or diſtricts, to provide

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vide for every ſuch private, the arms and equipments required as aforeſaid, and they ſhall depoſite the ſame in ſome ſafe and convenient place, and ſhall permit the commanding officer of the company, to which ſuch private, unable to provide himſelf as aforeſaid, belongs, to deliver ſuch arms and equipments to ſuch private, whenever his company ſhall be ordered out for any military duty. And the ſaid commanding officer ſhall be reſponſible for the ſafe return of ſuch arms and equipments to the place of depoſite.

SEC. 10. *Be it further enacted*, That the uniform of the militia, except of companies of artillery, light infantry, cavalry, grenadiers and riflemen, raiſed by voluntary enliſtment, whoſe uniforms are regulated by the laws of the United States, before recited, ſhall be a dark blue cloth coat, with ſuch facings and trimmings, and ſuch hat or cap, waiſtcoat and pantaloons of ſuch colour and faſhion, with half boots, or half gaiters, as a majority of the field officers of each regiment ſhall direct for ſuch regiment.

SEC. 11. *Be it further enacted*, That every officer, non-commiſſioned officer, and private ſhall hold his uniform exempted from all ſuits diſtreſſes, executions or ſales for debt, or the payment of taxes. And no officer, non-commiſſioned officer, nor private ſhall be arreſted on any civil proceſs, during his going unto, returning from, or his performance of military duty; nor during his going unto, remaining at, or returning from any place, at which he may be ordered to meet for the election of any officer or officers. And no officer ſhall be arreſted on any civil proceſs while going unto, ſerving upon, or returning from any court martial, court of enquiry, or board of officers, upon which it may be the duty of ſuch officer to attend.

SEC. 12. *Be it further enacted*, That the day of the appointment or election of any officer ſhall be expreſſed in his commiſſion, and ſuch day ſhall be conſidered as the date of his commiſſion. And whenever an officer is transferred from one corps or ſtation to another in the ſame grade, the day of the date of his original appointment or election ſhall be expreſſed in his new commiſſion, and that day be conſidered the date of his commiſſion. And when an officer ſhall, by fire or other caſualty, loſe his commiſſion upon his making an affidavit thereof, before any judge or juſtice of any court of record, in the county where he reſides, on ſuch affidavit being produced at the Adjutant-General's office, he ſhall be entitled to receive a new commiſſion, of the ſame tenor and date as the one ſo loſt as aforeſaid. And all officers when on duty ſhall take rank by the dates of their commiſſions as above defined. And when two or more officers of the ſame grade are on duty together, and their commiſſions bear an equal date, and former pretenſions of ſome commiſſion do not decide, then their relative rank with each other ſhall be determined by lot, to be drawn by them before the commanding officer preſent, and when on court martial, before the preſident thereof.

SEC. 13.

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SEC. 13. *Be it further enacted*, That whenever the office of major-general, brigadier-general, lieutenant-colonel commandant, major commandant, or of captain, shall be vacant, the officer next in grade and in commission, in the division, brigade, regiment, battalion, or company, shall exercise the command, and perform the duties thereof, until the vacancy shall be supplied. And in case of the sickness, absence, or other inability of the clerk of any company, the commanding officer thereof is hereby authorized to appoint a clerk pro tempore, who shall be duly sworn, and shall for the time being have all the powers, and be subject to all the duties, and be liable to all the penalties of the clerk, in whose place he is put. And whenever a company shall have neither officers nor non-commissioned officers the commanding officer of the regiment or battalion, to which such company belongs, shall appoint suitable persons within said company to be non-commissioned officers of the same, and grant them warrants accordingly, one of which non-commissioned officers he shall appoint clerk, and shall endorse the warrant of the non-commissioned officer, appointed clerk, and administer the oath to him, as required by the commanding officers of companies, in the eighth section of this act, and the senior non-commissioned officer of a company, while there are no commissioned officers in office, shall command the same; and all the authorities and powers of commanding officer shall be vested in him, until some commissioned officer is chosen or appointed, and has qualified himself. *Provided however*, that when a company destitute of commissioned officers, shall parade with other troops, the commanding officer present shall assign some commissioned officer or officers to such destitute company, to command the same while on parade.

SEC. 14. *Be it further enacted*, That in each brigade, where there are now or may hereafter be two companies of artillery, they shall form a battalion, and be entitled to a major, an adjutant, and a quarter-master; that in each brigade, where there are now, or shall hereafter be, three companies of artillery, they shall still form one battalion; and that in each brigade, where there are now, or may hereafter be, four companies of artillery, they shall form a regiment of two battalions, and be entitled to a lieutenant colonel commandant. And each company of artillery shall be provided by the quarter-master-general with two good brass field pieces, of such calibre as the Commander in Chief may direct, with carriages and apparatus complete; an ammunition cart, forty round shot, and forty rounds of canister shot; also tumbrils harness, implements, laboratory, and ordnance stores, which may from time to time be necessary for their complete equipment for the field. And the Commander in Chief shall order to be issued to each company of artillery annually, a quantity of powder not exceeding one hundred pounds, which shall be expended on days of inspection or review, and in experimental gunnery. And the commanding

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commanding officer of every company of artillery shall be accountable for the careful preservation of the pieces, and all the apparatus aforesaid appertaining to their equipment, and for the proper expenditure of the ammunition supplied by the government. And the commanding officer of every company of artillery shall lay before the committee on accounts for allowance, his accounts of money actually expended in providing horses to draw the field pieces and tumbril of his company: *Provided however*, No allowance shall be made, unless such company is ordered to appear at a battalion, regimental, brigade, or division inspection, or review, or to march out of the town in which the gun house of such company is situated, or unless such company is ordered on duty by the Commander in Chief. And each commanding officer of a company of artillery is hereby authorized to enlist three men to serve as drivers, who, when enlisted, shall be exempted from other military duty.

Sec. 15. *Be it further enacted*, That where there are now, or may hereafter be, two companies of cavalry in a brigade, they shall form a battalion, and be entitled to a major, an adjutant, and a quarter-master. And in those brigades where there are now, or may hereafter be, three companies of cavalry, they shall still form a battalion; and in each brigade, where there are now or may hereafter be four companies of cavalry, they shall form a regiment of two battalions, and be entitled to a lieutenant colonel commandant. And if any non-commissioned officer or private of any company of cavalry shall be destitute of a suitable horse and furniture for more than two months, at one time, it shall be the duty of the commanding officer, of the company immediately to apply to the brigadier-general of the brigade, whose duty it shall be forthwith to discharge such non-commissioned officer or private from such company, and cause him to be enrolled in the standing company within whose bounds he resides, and if he be a non-commissioned officer, he shall be considered as reduced to the ranks. And when any draft or detachment shall be made from any company of cavalry for actual service, the men drafted or detached shall march with their own horses, and before they march, if there be time, the horses shall be appraised by three impartial men, to be appointed by the commanding officer of the brigade, to which the company belongs, from which the draft or detachment is ordered.

Sec. 16. *Be it further enacted*, That no company of cavalry, artillery, light infantry, grenadiers, or riflemen shall be raised at large when any of the standing companies shall thereby be reduced to a less number than sixty-four privates; and no officer of cavalry, artillery, light infantry, grenadiers, or riflemen, shall enlist any men belonging to a standing company, for the purpose of forming or recruiting his company, when, by means thereof, such standing company should be reduced to a less number than sixty-four privates; and if any company, raised at large, shall at any time be destitute

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stitute of commissioned officers, and shall neglect to fill the vacancies for two months after being ordered to choose officers to fill them, or if any such company shall be reduced to a less number than twenty privates, and remain so for three months, then, in either case as aforesaid, such company shall be disbanded, and the men which belonged to such delinquent company shall be enrolled in the standing company, within the bounds of which they respectively reside. And all companies, raised at large, and not annexed to any particular regiment, shall be subject to the orders of the commanding officer of the brigade in which they have been raised; and shall make their elections of officers in the same manner as other companies, but shall make their returns of elections to the commanding officer of the brigade. And at all parades of regiments, the companies commanded by the two senior captains shall act as light infantry companies, except where companies of light infantry, grenadiers, or riflemen, have been or may be hereafter raised and annexed to the regiment

Sec. 17. *Be it further enacted*, That each brigadier-general be, and he hereby is authorised to raise by voluntary enlistment, and to organise and establish within his brigade, a band of musick, not to exceed twenty four musicians, including one master and two deputy masters; and each brigadier-general may, at his discretion divide such band into sections not exceeding three, and establish them in such parts of his brigade, as in his opinion may most conduce to the good of the service; and the brigadier-general shall grant the musicians, deputy masters, and master of the band, warrants as such, and each band shall be under the direction of the commanding officer of the brigade in which it is raised. And it shall be the duty of the master and deputy masters, to teach, lead, and command such band, or section of a band, and issue all such orders as they may be by their brigadier-general authorised to, for those purposes. And each master, deputy master, and musician shall constantly keep himself provided with the uniform of the band to which he belongs, which uniform is to be prescribed by the brigadier-general; and shall also keep himself constantly provided with such instrument or instruments as may be directed. And if any master, deputy master, or musician shall be guilty of any neglect of duty, disobedience of orders, disorderly, or other unmilitary conduct, he shall forfeit not less than *ten* nor more than *twenty* dollars to the use of the Commonwealth, for each offence, to be sued for by the brigade-major of the brigade, in an action on the case, before any Justice of the Peace in the county where the offender resides, and no appeal shall be allowed to either party; and such master, deputy master, or musician, shall moreover be liable to be removed from the band, at the discretion of the brigadier general, and shall forthwith be enrolled as a private in the standing company within the bounds of which he resides. And each master, deputy master, and musician of a band shall be exempted from

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from all military duty while belonging to the band, excepting such as shall be required of him by the brigadier-general, even if the company from which he enlisted should not be full. And it shall be the duty of every brigade-major, who may have recovered any forfeiture from any one belonging to the brigade band, to credit the Commonwealth for the same in his account.

SEC. 18. *Be it further enacted*, That every commanding officer of a company shall parade his company on the first Tuesday of May annually, at one of the clock in the afternoon, for the purpose of inspecting, examining and taking an exact account of all the equipments of his men, and for noting all delinquencies of appearance, and deficiencies of equipment, and for correcting his company roll, in order that a thorough inspection of each company in the Commonwealth may be made. And it shall be the duty of every commanding officer of a company, to parade his company by his own order, on three several days in the year for training, in addition to the company inspection aforesaid; and on the three several days of training, to use his best exertions, in instructing and perfecting his men in their company exercise and evolutions. And whenever the commanding officer of a company shall order out his company for inspection or training, or for any battalion, regimental, brigade or division inspection, or review, he shall issue his orders to some one or more of the non-commissioned officers or privates of his company requiring him or them, to notify the men belonging to his company to appear at the time and place appointed; and it shall be the duty of the non-commissioned officer or officers, private or privates, so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man, he or they shall have been ordered to notify, either by delivering to each man in person, or by leaving at his usual place of abode, a written or printed order. And no notice shall be legal, for any company inspection or training, or for any battalion, regimental, brigade, or division inspection, or review, unless the same shall be given four days at least previous to the time appointed therefor. *Provided always*, that in case of invasion, insurrection, or other emergency, any notice, however short, shall be legal and binding. And in all cases the testimony of the clerk, or any other non-commissioned officer or private, who shall have received orders to notify the whole or any part of the men, of any company, to appear at a time and place appointed, for any military duty, shall be conclusive to prove, that due notice was given to the party prosecuted, unless such testimony be invalidated by other evidence. And whenever any company shall be paraded, the commanding officer of such company is hereby authorised verbally to notify the men so paraded, to appear on some future day, not exceeding thirty days from the time of such notification, and such notice shall be legal, as it respects the men present.

SEC. 19.

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SEC. 19. *Be it further enacted*, That every commanding officer, when on duty, is hereby authoriſed to aſcertain and fix neceſſary limits and bounds to his parade (no road in which people uſually travel to be included) within which no ſpectator ſhall have a right to enter, without liberty from ſuch commanding officer: and in caſe any perſon ſhall intrude within the limits of the parade, after being once forbidden, he ſhall be ſubject to be confined under guard during the time of the parade, or a ſhorter time, at the diſcretion of the commanding officer.

SEC. 20. *And be it further enacted*, That any keeper of a tavern, boarding houſe, or maſter or miſtreſs of any dwelling houſe, who ſhall refuſe to give information of the name or names of any perſon or perſons reſiding with him or her, liable to do military duty, when applied to for that purpoſe by the commanding officer of the company, within the bounds of which ſuch tavern, boarding houſe or dwelling houſe is ſituated, or when applied to for that purpoſe by any perſon acting under the orders of ſuch commanding officer, or ſhall give any falſe information upon ſuch application, every ſuch perſon ſo offending ſhall forfeit twenty dollars, to be ſued for by the clerk of the company in an action on the caſe before any juſtice of the peace of the county where ſuch offender reſides. And in all caſes of doubt reſpecting the age of any perſon intended to be enrolled, the party queſtioned as to his age ſhall prove the ſame to the ſatisfaction of the enrolling officer; and if any perſon liable to military duty, upon application to him perſonally by the commanding officer of the company, within the bounds of which ſuch perſon reſides, or upon application, as aforeſaid by any perſon acting under ſuch commanding officer, ſhall either refuſe to give his name, or not give his name truly, every ſuch perſon ſo offending, ſhall forfeit twelve dollars, to be ſued for in the manner before pointed out in this ſection.

SEC. 21. *Be it further enacted*, That when any non-commiſſioned officer or private in any company, ſhall receive orders from the commanding officer of ſuch company, to notify and warn ſuch company or any part thereof, to meet for the purpoſe of chooſing any officer or officers, it ſhall be the duty of ſuch non-commiſſioned officer or private to give every perſon he is ſo ordered to warn, perſonal notice, or to leave him a written or printed notification at his uſual place of abode, ſpecifying the time, place and purpoſe of ſaid meeting; and no election of a company officer ſhall be valid in future, unleſs a majority of the qualified voters of the company are preſent at the election.

SEC. 22. *Be it further enacted*, That every town and diſtrict, within this commonwealth, ſhall provide and depoſite, and conſtantly keep provided and depoſited in ſome ſuitable and convenient place within ſaid town or diſtrict, ſixty-four pounds of good gunpowder; one hundred pounds of muſket balls, each of the eighteenth part of a pound; one hundred twenty-eight flints, ſuit-

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able for muſkets; three copper, iron, or tin camp kettles, for every ſixty-four ſoldiers enrolled within ſaid town or diſtrict; and the ſame proportion of the aforeſaid articles for a greater or leſs number of ſoldiers enrolled as aforeſaid. And every town or diſtrict, which ſhall neglect to keep itſelf conſtantly provided with the articles aforeſaid, and in the proportions aforeſaid, ſhall forfeit and pay to the uſe of the commonwealth, a ſum not exceeding five hundred dollars, nor leſs than twenty dollars, according to the nature and degree of the neglect, to be recovered by indictment or information in any court of competent juriſdiction.

And it ſhall be the duty of the brigade-quarter-maſter, in the month of September annually, perſonally to examine, view, and inſpect the military ſtores (to be provided by every town and diſtrict as aforeſaid) of each town and diſtrict within his brigade; and to make out a ſchedule of all the articles of ſtores, with their quality and condition, in which he ſhall note all defects and deficiencies, and ſhall enter and record the ſame in a book to be kept by him for that purpoſe, and tranſmit a copy of ſuch ſchedule, certified by him to the office of the adjutant general, on or before the firſt day of November annually. And it ſhall further be the duty of each brigade-quarter-maſter to cauſe every town or diſtrict, within his brigade, to be proſecuted or preſented, which town or diſtrict he ſhall find upon his inſpection to be deficient, either in the quality or quantity of military ſtores, required to be provided as aforeſaid, or which he ſhall find to have neglected to make the proviſions, or any part thereof required as aforeſaid.

SEC. 23. *Be it further enacted*, That the ſelectmen of every town and diſtrict ſhall ſupply, at the expence of ſuch town or diſtrict, or cauſe the commanding officer of each company within ſaid town or diſtrict to be ſupplied with one quarter of a pound of good powder made into blank cartridges, for each non-commiſſioned officer and private borne on the company roll of ſuch commanding officer, whenever ſuch commanding officer's company is ordered to parade for review, provided ſuch commanding officer makes a written application therefor, ſtating therein the number of men to be ſupplied.

SEC. 24. *Be it further enacted*, That whenever in caſe of threatened or actual invaſion, inſurrection, or other publick danger or emergency, the militia ſhall be ordered out, or any part thereof ſhall be ordered to be detached or drafted by the Commander in Chief, any perſon who ſhall be ordered out, detached, or drafted, in purſuance of and obedience to ſuch order, and being notified thereof, and ordered to march to the place of rendezvous, and ſhall neglect or refuſe to obey ſuch orders, and ſhall not within twenty-four hours, after he ſhall have been notified as aforeſaid, pay a fine of fifty dollars, to the commanding officer of the company to which he belongs, or procure an able bodied man in his ſtead, ſuch perſon ſhall be conſidered as a ſoldier, belonging to the detachment,

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detachment, and be dealt with accordingly. And all fines paid as aforesaid, shall be appropriated to the hire of men to complete the detachment. And the officers of any detachment, ordered to be made as aforesaid, shall be regularly detailed from the rosters, and the non-commissioned officers and privates by lot, from the company rolls: And when any company shall not be organized, the officer commanding the brigade or regiment, shall either by himself or some other under him, proceed to make and complete the detachment, from such unorganized company. And whenever the militia, or any part thereof, after having been ordered out or detached as aforesaid, shall be ordered to march for the service of this State, each non-commissioned officer and private, so ordered to march, shall provide and take with him three days provisions, unless otherwise ordered. And the selectmen of every town and district, to which the men detached as aforesaid, and ordered to march for the service of this State, belong, shall provide and cause carriages to attend them with further supplies of provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist, and the selectmen shall present their accounts for supplies to the General Court for allowance. And whenever the selectmen of any town or district, from which a detachment or part thereof as aforesaid shall march, and being notified by the commanding officer of such detachment or part thereof, belonging to such town or district, and shall neglect or refuse to furnish the necessary supplies, camp equipage and camp utensils, the town or district to which the selectmen, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same, in an action on the case, in any court of competent jurisdiction, one moiety to the prosecutor, and the other to the use of the commonwealth. And the officer to whom, or by whose order any camp equipage or camp utensils, shall be delivered, shall be accountable for the same unless injured or lost by some accident not in his power to prevent.

SEC. 25. *Be it further enacted*, That all the troops of each division shall be paraded once in each year for review, inspection and discipline, either in brigades, regiments or battalions of regiments, (regard being had to the scattered or compact situation of the troops) at such times as the commanding officer of the divisions may order. And when a brigade review or inspection is ordered, the commanding officer of the brigade shall appoint the place, and give notice thereof to the commanding officer of the division; when a regimental review or inspection is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade; and when a review or inspection of a regimental battalion is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof

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thereof to the commanding officer of the brigade. And the places to be appointed for reviews or inſpections as aforeſaid, ſhall always be as central as, in the judgment of the officer pointing out the place, convenience will admit. And the artillery, cavalry, and other troops raiſed at large, and not annexed to any particular regiment, ſhall be reviewed and inſpected once in each year, either by themſelves, or with the brigades, regiments or battalions of regiments, as the commanding officer of the reſpective diviſions may order and direct. *Provided*, that no officer, non-commiſſioned officer or private ſhall be obliged to march a greater diſtance from his home than fifteen miles to any brigade review.

Sec. 26. *Be it further enacted*, That no officer non-commiſſioned officer or private ſhall be holden to perform any military duty on any day (except on days which are or may be ſpecially preſcribed by law) on which the ſelectmen of the town or diſtrict, in which ſuch officer, non-commiſſioned officer or private reſides, ſhall appoint a meeting for the election of a repreſentative to the general court, nor ſhall there be any military parade on the day pointed out by the conſtitution of this commonwealth for the election of governor, lieutenant-governor and ſenators, nor on any day which may be appointed for the choice of electors of preſident and vice preſident of the United States, or repreſentatives to congreſs. And it ſhall not be lawful for any officer to parade his men on either of ſaid days, unleſs in caſe of invaſion made or threatened, or in obedience to the orders of the commander in chief, except as is herein before excepted.

Sec. 27. *Be it further enacted*, That each regiment and battalion ſhall be furniſhed with the ſtate and regimental colours; and each company of infantry, artillery, light infantry, grenadiers and riflemen ſhall be furniſhed with a drum and fife, or bugle horn, and each company of cavalry with a trumpet: and each brigadier-general, after the firſt day of Auguſt next enſuing, is hereby authorized to draw orders upon the quarter-maſter-general, in favour of the commanding officers of regiments, battalions and companies, for the above purpoſes, that the ſeveral regiments, battalions and companies may be ſupplied as aforeſaid. And the commanding officers of regiments and battalions ſhall be reſponſible for the ſafe keeping of their colours; and the commanding officers of companies ſhall be reſponſible for the ſafe keeping of the drums, fifes, bugle horns and trumpets, delivered to them for the uſe of their companies. And the adjutant-general ſhall furniſh blank orders for the commanding officers of companies to order their non-commiſſioned officers and privates to notify their men to attend all the inſpections, trainings and reviews and meetings for the choice of officers, which ſhall be ordered; alſo blank notifications or orders, to be left with the men by the non-commiſſioned officers or privates, ordered to notify as aforeſaid, and it ſhall not be neceſſary that ſeals be affixed to any orders whatever.

Sec. 28.

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SEC. 28. *Be it further enacted*, That all parents, maſters or guardians, ſhall furniſh all minors enrolled in the militia, who ſhall be under their care reſpectively, with the arms and equipments required by this act; and if any parent, maſter or guardian, having any minor under his care enrolled as aforeſaid, ſhall neglect to provide ſuch minor with the arms and equipments, required by this act, he is hereby ſubjected and made liable to the ſame forfeitures, as ſuch minor would be liable to, for a like deficiency or neglect, if ſuch minor were of age: *Provided however*, That ſuch parents, maſters or guardians as ſhall produce, on or before the firſt Tueſday of May, annually, certificates from the overſeers of the poor of the town or diſtrict in which they reſide, of their inability to provide arms and equipments as aforeſaid, to the commanding officer of the company in which the minor under their care is enrolled, ſhall be exempted from the forfeitures aforeſaid.

SEC. 29. *Be it further enacted*, That no non-commiſſioned officer or private of any company ſhall be exempted from military duty on account of bodily infirmity, unleſs he ſhall obtain from the ſurgeon or ſurgeon's mate of the regiment to which he belongs, if either of thoſe officers are commiſſioned in ſuch regiments; if not, from ſome reſpectable phyſician living within the bounds of the ſame, that he is unable to perform military duty on account of bodily infirmity, the nature of which infirmity is to be deſcribed in ſaid certificate, and the commanding officer of the company may, on the back of ſuch certificate, diſcharge the non-commiſſioned officer or private, named therein, from performing military duty, for ſuch a term of time as he ſhall judge reaſonable, not exceeding one year, which certificate, if approved and counterſigned by the commanding officer of the regiment or battalion, to which the diſabled non commiſſioned officer or private belongs, ſhall entitle him to exemption from military duty for the time ſpecified. And any non-commiſſioned officer or private, having obtained a certificate as aforeſaid, and who may be refuſed a diſcharge, or an approval of a diſcharge, as aforeſaid, may apply to the commanding officer of the brigade for a further examination of his caſe, and if, on ſuch examination, the commanding officer of the brigade ſhall be well ſatisfied that the bodily infirmity of ſuch non-commiſſioned officer or private is ſuch that he ought to be diſcharged, he is hereby authorized to diſcharge him from military duty for ſuch time as he ſhall judge reaſonable, not exceeding one year, which being certified by the commanding officer of the brigade on the back of the certificate, ſhall diſcharge the non-commiſſioned officer or private from military duty, for the time ſpecified by the commanding officer of the brigade.

SEC. 30. *Be it further enacted*, That if any officer, non-commiſſioned officer or private, ſhall be killed, or die of wounds received when on any military duty required by this act, his widow, child or children, ſhall receive from the general court ſuch relief as ſhall be

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be juſt and reaſonable. And if any officer, non-commiſſioned officer, or private, ſhall be wounded, or otherwiſe diſabled when on ſuch duty, he ſhall receive from the general court juſt and reaſonable relief.

SEC. 31. *Be it further enacted*, That the commander in chief ſhall appoint general courts martial for the trial of all officers above the rank of captain; and the major-generals, or commanding officers of diviſions, each within his own diviſion, ſhall appoint diviſion courts martial for the trial of captains and officers under that rank; and whenever a court martial is ordered, the officer ordering it ſhall appoint the preſident and marſhal of the ſame; and if it be a general court martial, orders ſhall be iſſued to ſuch diviſions as, in the opinion of the commander in chief, may moſt conveniently furniſh the members thereof; if it be a diviſion court martial, orders ſhall be iſſued to ſuch brigades, regiments, battalions or companies, within the diviſion, as in the opinion of the major-general or commanding officer of the diviſion, may moſt conveniently furniſh the members thereof. The preſident of a general court martial ſhall in no caſe be under the rank of brigadier-general, and the preſident of a diviſion court martial, ſhall in no caſe be under the rank of lieutenant-colonel commandant. And whenever the commanding officer of a diviſion, brigade, regiment or battalion, ſhall be ordered to furniſh any officer or officers, as member or members, ſupernumerary or ſupernumeraries of a court martial, ſuch officer or officers ſhall be regularly detailed from the roſter of the diviſion, brigade, regiment or battalion by the commanding officers thereof, reſpectively, forthwith, after having received orders therefor as aforeſaid: *Provided however*, That in caſe of inability, ſickneſs, or abſence of any officer, whoſe turn it would be to ſerve on a court martial, the detailing officer ſhall certify ſuch circumſtance to the officer who ordered the court martial, and detail the officer next in rotation. And the officers, ordered to be detailed to ſerve on courts martial, ſhall be detailed in the following manner. Major-generals, by the commander in chief, or his orders from the general roſter; brigadier generals, by the commanding officers of diviſions, from the diviſion roſters: lieutenant-colonels and majors by the commanding officers of brigades, from the brigade roſters; and captains and ſubalterns by the commanding officers of regiments or battalions, from the regimental or battalion roſters, as the caſe may be. All courts martial ſhall be conſtituted of a preſident, a judge advocate, twelve members and a marſhal. And the officer appointing a court martial, may, at his diſcretion, order a number of officers, not exceeding ſix, to be detailed as ſupernumeraries, in addition to the twelve intended to ſerve as members, to attend the court at the organization thereof; and in caſe there ſhould be any vacancy or vacancies, the judge advocate ſhall fill ſuch vacancy or vacancies, from the ſupernumeraries, beginning with the higheſt in grade, and proceeding in regular

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regular rotation. All officers on a court martial shall take rank by seniority of commission without regard to corps. Before any court martial shall proceed to the trial of any officer, the judge advocate shall administer to the president and each of the members, singly, the following oath:

You, A. B. *do swear, that without partiality, favour, affection, prejudice or hope of reward, you will well and truly try the cause now before you, between this Commonwealth and the person* [or persons if more than one is accused of the same complaint] *to be tried; and you do further swear, that you will not divulge the sentence of this court martial, until it shall be approved or disapproved of, and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help you GOD.*

And the president shall administer to the judge advocate the following oath:

You, A. B. *do swear, that you will faithfully and impartially discharge your duties as judge advocate on this occasion, as well to the commonwealth, as to the accused, and that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this court martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help you GOD.*

All persons shall be holden to appear and give evidence, before any court martial, when thereto summoned by the judge-advocate or a justice of the peace, under the same penalties for neglect, as are by law provided against witnesses who neglect to appear when summoned to give evidence in criminal prosecutions. All witnesses shall be sworn or affirmed by the judge-advocate before they give their evidence to the court, and the form of the oath or affirmation to a witness shall be as follows:

You A. B. *do swear* (or affirm, as the case may be) *that the evidence you* SHALL *give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you GOD,* for, *this you do under the pains and penalties of perjury,* in case the witness shall affirm.)

When any member of a court martial is challenged, either on the part of the government, or the accused, the cause of the challenge must be stated in writing, of which the court, after due deliberation, shall determine the relevancy or validity, and decide accordingly. And no challenge to more than one member at a time, shall be received by the court. On questions of challenge, the member objected to shall not vote, but the president may vote with the members, that the number of votes may remain twelve. And in no case shall a challenge be acted upon, until the president and judge-advocate, and the intended members are sworn. All trials by courts martial shall be carried on in the day time, and when the votes are called for on a question, the judge advocate shall begin with the youngest in commission,

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miſſion, and proceed regularly to the oldeſt. And at all courts martial, unleſs two thirds of the members agree that the accuſed is guilty, the judge advocate ſhall record his acquittal; but if two thirds, or more, pronounce the accuſed to be guilty, the court ſhall ſentence him either to be reprimanded in orders, or removed from office; and if any officer be ſentenced to be removed from office, the court ſhall adjudge him to be diſqualified for, and incapable of, holding any military office under this Commonwealth, either for life or term of years, according to the aggravation of his offence: which ſentence, either of reprimand in orders, or removal from office, if approved, ſhall remain in full force; but the judgment of diſqualification may be reverſed by the commander in chief, with advice of council. And all courts martial are hereby authoriſed to preſerve order during their ſeſſion; and if any perſon or perſons, in preſence of a court martial, ſhall behave in a diſorderly manner, or make any tumult in, or diſturb a court martial, and ſhall not upon command of the marſhal thereof, deſiſt therefrom, it ſhall be lawful for the court martial to confine ſuch diſorderly perſon or perſons for a time not exceeding eight hours.

Sec. 32. *Be it further enacted*, That the commander in chief may call boards of officers, whenever in his opinion they may be neceſſary for ſettling military queſtions, or for other purpoſes relative to good order and diſcipline. And the commander in chief, or the major-generals, or commanding officers of diviſions, each within his own diviſion, may order courts of inquiry, to examine into the nature of any tranſaction, or any accuſation or imputation againſt any officer when made by an inferior. *Provided however*, That courts of inquiry on all officers above the rank of captain are to be ordered by the commander in chief; and courts of inquiry on captains and other officers under that rank are to be ordered by the major-generals or commanding officers of diviſions. And courts of inquiry ſhall always conſiſt of three officers, with the judge advocate of the diviſion in which they are holden, or ſome other ſuitable perſon, in caſe of his inability to attend, or any legal impediment to his acting, all of whom ſhall be ſworn. Theſe courts ſhall have the ſame power to ſummon witneſſes as courts martial, and to examine them on oath; but they ſhall not give their opinion on the merits of the caſe, unleſs they are ſpecially required ſo to do. The parties ſhall alſo be permitted to croſs-examine and interrogate the witneſſes, ſo as fairly to inveſtigate the circumſtances in queſtion. The proceedings of a court of inquiry are to be authenticated by the ſignatures of the preſident and judge advocate, and are to be tranſmitted by the judge advocate, under ſeal, to the officer who appointed the court. The judge advocate ſhall adminiſter to each of the officers compoſing a court of inquiry the following oath:

You, A. B. do ſwear, that you will well and truly examine and inquire

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quire into the matter now before you, without partiality, favour, affection, prejudice, or hope of reward. So help you GOD.

After which the preſident ſhall adminiſter to the judge-advocate the following oath:

You, A. B. do ſwear that you will impartially record the proceedings of the court, and the evidence to be given in the caſe, in hearing. So help you GOD.

The judge-advocate ſhall adminiſter to the witneſſes the ſame oath, or affirmation, as the caſe may be, as is preſcribed in the thirty-firſt ſection of this act, to be adminiſtered to witneſſes before a court martial. And as courts of inquiry, when not properly regulated, may be perverted to improper purpoſes, all other courts of inquiry than thoſe above provided for are prohibited.

SEC. 33. *Be it further enacted*, That it ſhall be the duty of the judge-advocates to attend all general and diviſion courts martial, and all courts of inquiry, within the diviſions in which they are reſpectively commiſſioned, when thereto ordered. *Provided nevertheleſs*, That it ſhall be in the power of the commander in chief, or the major-generals, or commanding officers of diviſions, to appoint a judge-advocate, *pro tempore*, to any particular court martial or to any particular court of inquiry, appointed to be holden, in caſe of inability of the diviſion judge-advocate, or in caſe of any legal impediment to his acting. And it ſhall further be the duty of each judge-advocate, or perſon officating as ſuch, at any court martial, impartially to ſtate the evidence both for and againſt the the officer or officers under trial: to take acurate minutes of the evidence, and of the proceedings of the court, all of which, with the judgment of the court thereupon, authenticated by his ſignature, and that of the preſident of the court, with the papers uſed at the trial, or copies thereof, certified by him, he ſhall tranſmit under ſeal to the officer, whoſe duty it is to approve or diſapprove of ſuch judgment and proceedings: and all motions and objections to evidence, whether on the part of the commonwealth or the accuſed, and the opinions of the judge-advocates on queſtions of law made at the trial, ſhall be given in writing: and the ſtatement of the complainant, and the defence of the accuſed ſhall be made in writing, in order that a full view of the trial may be had by the officer who ordered the court. And the original records of the preceedings and judgment of all general and diviſion courts martial, after having received the approbation or diſapprobation of the officer who appointed them, ſhall, as ſoon as opportunity of time and diſtance will admit, after ſuch courts martial are diſſolved, be depoſited in the office of the ſecretary of ſtate, where they ſhall be carefully kept and preſerved; and the officer who appointed a court martial ſhall be entitled to receive upon his demand, a copy of the original record from ſaid office, certified by ſaid ſecretary. And the party tried by any general or diviſion court martial, upon requeſt made at

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the office of the ſecretary of ſtate, by himſelf, or any perſon authoriſed in his behalf, ſhall be entitled to a copy of the original record, certified as aforeſaid, of the proceedings and judgment of the court martial which tried him, he paying reaſonably therefor.

Sec. 34. *Be it further enacted*, That the following ſhall be the rules and articles by which the militia of this commonwealth ſhall be governed, when not in actual ſervice.

Article 1. Every commiſſioned officer, who ſhall be guilty of any unmilitary conduct, neglect of duty, or diſobedience of orders, or who ſhall, when on duty, appear or behave himſelf in an unofficer-like manner, or ſhall wilfully oppreſs or injure any under his command, or who ſhall at any time ſet on foot or join in any combination to reſiſt or evade the lawful orders of any commiſſioned officer, ſhall be liable to be tried by a court martial.

Article 2. If any officer ſhall, in due courſe of law, be convicted of any infamous crime, he ſhall be forthwith put in arreſt, and deprived of all military command, until an opportuny ſhall be had for both houſes of the legiſlature to addreſs the governour for his removal.

Article 3. Every officer to be tried by a court martial, ſhall be put in arreſt, ſo as to be ſuſpended from the exerciſe of his office, and ſhall have a copy of the charges exhibited againſt him, and notice of the time and place appointed for his trial, which copy and notice ſhall be given ten days at leaſt before his trial is commenced.

Article 4. In caſe any officer, for the trial of whom a court martial is appointed, ſhall neglect to appear and make defence, or if appearing ſhall afterwards withdraw in contempt of the court or being arraigned before a court martial, ſhall from obſtinacy or deliberate deſign ſtand mute, or anſwer foreign to the purpoſe, the court may proceed to trial and judgment as if he had regularly pleaded not guilty.

Article 5. If any officer, after having been put in arreſt, ſhall preſume to exerciſe any military command, until he is diſcharged from his arreſt, he ſhall be liable to be tried by a court martial, and if convicted, he ſhall be removed from office.

Article 6. No officer ſhall be tried by a court martial for any offence which ſhall have been committed more than one year previous to the time when a complaint ſhall have been made in writing therefor, unleſs he, by reaſon of having abſented himſelf, or ſome other manifeſt impediment, ſhall not have been amenable to juſtice within that period.

Article 7. Every captain or commanding officer who ſhall either neglect or refuſe to call out his company as often as, and at the times required by this act, or at any other time, when thereto required by his ſuperiour officer, or who ſhall at any time excuſe any under his command for unneceſſary abſence or deficiency, ſhall be liable to be tried by court martial.

Article 8. No officer ſhall be permitted to reſign while under arreſt.

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arreſt. And no reſignation of any officer ſhall be approved, if ſuch reſignation be offered between the firſt day of May and the firſt day of November, unleſs the reaſons offered by the officer wiſhing to reſign within thoſe days, be very urgent.

Article 9. No officer ſhall be diſcharged, except by the commander in chief, on requeſt of ſuch officer, in writing, or by actual removal of reſidence, out of the bounds of his command, and to ſuch diſtance that his major-general ſhall think it inconvenient for him to diſcharge the duties of his office, or by twelve months abſence, without leave of the commanding officer of his diviſion, or by the corps to which he belongs being diſbanded by law.

Article 10. No officer ſhall conſider himſelf as exempted from the duties of his ſtation, except when under arreſt, until he ſhall have been diſcharged by one of the methods, or cauſes pointed out in the preceding article, or ſhall have received a certificate of his diſcharge from the commander in chief.

Article 11. No general or field officer ſhall approve a reſignation until the orderly book or books, in the poſſeſſion of the reſigning officer, are taken care of, for the uſe of the corps to which ſuch officer belongs, in order that ſuch book or books may be delivered to his ſucceſſor.

Article 12. The captain or commanding officer of every company raiſed at large, ſhall annually, in the month of April, make out a liſt or liſts of the names of the men belonging to his company, and deliver the ſame to the commanding officer of the regiment or regiments, within whoſe bounds ſuch men reſide.

Article 13. Every captain or commanding officer of a company ſhall make return of the ſtate of his company, comprehending the names of all the men belonging thereto, with all their arms and equipments, to the commanding officer of the regiment or battalion in the month of May annually. Every commanding officer of a regiment ſhall make a return of the ſtate of his regiment to the commanding officer of the brigade in the month of June annually. And every commanding officer of a brigade, ſhall make out duplicate returns of his brigade, one of which he ſhall tranſmit to the major-general of the diviſion to which he belongs, and the other to the adjutant-general, in the month of July, annually.

Article 14. Every perſon who ſhall enliſt in any volunteer company, (whether ſuch perſon be exempted by this act from military duty or not) ſhall be holden to do duty therein for the term of ſeven years, unleſs ſuch perſon be ſooner diſcharged by order of the commanding officer of the brigade.

Article 15. Each brigadier-general, or commanding officer of brigade, within his own brigade, upon application of the commanding officer of any company of artillery, cavalry, light infantry, grenadiers, or riflemen, may diſcharge any non-commiſſioned officer or private from any of the aforeſaid companies; and ſuch non-commiſſioned

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non-commiſſioned officer or private ſhall forthwith be enrolled in the ſtanding company, within the bounds of which he reſides; and every non-commiſſioned officer ſo diſcharged, ſhall be conſidered as reduced to the ranks.

Article 16. Whenever different corps ſhall parade, join, or do duty together, the ſenior officer preſent ſhall command without regard to corps.

Article 17. Any officer neglecting or refuſing to make a draft or detachment, when ordered in purſuance of the twenty-fourth ſection of this act, ſhall be arreſted, and be liable to be tried by a court martial; and the officer next in command ſhall be ordered to make the draft or detachment.

Article 18. It ſhall be the duty of each commanding officer of a company, drawing cartridges in purſuance of the twenty-third ſection of this act, to cauſe them to be diſtributed equally among his men on the parade, and the cartridges drawn for thoſe men who do not appear, ſhall as far as poſſible be equally diſtributed among the men on duty, and each commanding officer ſhall ſee that the cartridges drawn as aforeſaid are uſed in teaching his men preciſion in their firings. And if any non-commiſſioned officer or private ſhall come on to any parade with his muſket, rifle, or piſtol loaded with ball, ſlugs, or ſhot, he ſhall, for ſuch offence, forfeit not leſs than *five* nor more than *twenty* dollars.

Article 19. If any officer, contrary to the proviſion of the twenty-ſixth ſection of this act, ſhall parade his men on either of the days of election in ſaid ſection pointed out, he ſhall be liable to be tried by a court martial; and moreover ſhall forfeit a ſum not leſs than *fifty*, nor more than *three hundred dollars*, to be ſued for and recovered in any action on the caſe, before any court of competent juriſdiction, one moiety thereof to the uſe of the perſon who may proſecute for the ſame; the other to the uſe of the commonwealth.

Article 20. At all regimental and battalion parades, the ſeveral companies ſhall form in regiment or battalion according to the rank of the officers preſent commanding them; and the ſame rule ſhall apply in all caſes, excepting thoſe in which artillery, cavalry, light infantry, grenadiers, and rifle-men, may by uſage and neceſſity, be detached from the regiments and battalions.

Article 21. Any non-commiſſioned officer or private, who ſhall, while under arms, or when on duty, behave himſelf with contempt to an officer, or ſhall conduct in a diſorderly manner or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and ſo kept for a longer or ſhorter time, at the diſcretion of the commanding officer of the company; not exceeding however the time which the company, to which he belongs, is diſmiſſed; and ſhall moreover forfeit a ſum, not leſs than five nor more than twenty dollars, for each offence, according to the degree and aggravation of the ſame.

Article 22.

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Article 22. Any non-commiſſioned officer or privtate, who ſhall, without leave of his officer, quit his guard, ſection, platoon or company, ſhall for each offence forfeit not leſs than two, nor more than ten dollars.

Article 23. Any non-commiſſioned officer or private, who ſhall, in going to, or returning from, or while on the place of parade, or while under arms, unneceſſarily, and without orders, diſcharge his muſket, rifle, or piſtol, ſhall forfeit not leſs than five nor more than twenty dollars, for each offence.

Article 24. Any non-commiſſioned officer or private, who ſhall refuſe or neglect to give any notice or warning, when ordered thereto by the commanding-officer of the company to which he belongs ſhall for ſuch offence forfeit not leſs than *twelve* nor more than *twenty dollars*.

Article 25 If any non-commiſſioned officer or private ſhall, in due courſe of law, be convicted of any infamous crime, he ſhall be forthwith diſenrolled from the militia.

Article 26. Every non-commiſſioned officer, who ſhall be guilty of any diſobedience of orders neglect of duty or other unmilitary conduct, may be reduced to the ranks by the commanding officer of the regiment to which he belongs, by and with the advice of the commanding officer of the company to which ſuch non-commiſſioned officer belongs.

Article 27. Every non-commiſſioned officer or private, (excepting thoſe, who by the firſt ſection of this act, are permitted to ſend their arms and equipments on that day for inſpection) who being duly ordered to appear at the company inſpection and view of arms on the firſt Tueſday of May, and ſhall unneceſſarily neglect to appear at the time and place appointed, ſhall forfeit *three dollars*.

Article 28. Every non-commiſſioned officer or private, who being duly ordered, ſhall unneceſſarily neglect to appear at any company training, at the time and place appointed, ſhall forfeit *two dollars*.

Article 29. Every non-commiſſioned officer or private, who being duly ordered, ſhall unneceſſarily neglect to appear, for any battalion, regimental or brigade inſpection or review, at the time and place appointed, ſhall forfeit *four dollars*.

Article 30. Every non-commiſſioned officer or private, who ſhall appear at the company inſpection, on the firſt Tueſday in May, or at any company training, or, for any battalion, regimental or brigade inſpection or review, and ſhall not be armed and equipped as the law directs, ſhall, for each article, in which he is deficient, or which ſhall be of bad quality, or in bad condition, forfeit as follows; if deficient of a good muſket of a bore ſufficient for balls of the eighteenth part of a pound, a ſufficient bayonet and belt, and an iron or ſteel ramrod; all which articles are to be conſidered as one, and a deficiency in either ſhall be conſidered a deficiency of the

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the whole, he ſhall forfeit *one dollar*: if deficient of a cartridge box, containing twenty four cartridges ſuited to the bore of his muſket, and each cartridge containing a proper quantity of good powder and ball, or if deficient of a ſerviceable knapſack, he ſhall forfeit *thirty cents*: if deficient of two ſpare flints and a priming wire and bruſh, or either of them, he ſhall forfeit *twenty cents*. *Provided nevertheleſs*, that none of the above forfeitures ſhall be incurred by any private, in caſe he appears with a good rifle, knapſack, ſhot pouch, powder horn, a quarter of a pound of powder and twenty balls ſuited to the bore of his rifle. *Provided moreover*, That cartridges, with ball, ſhall not be brought into the field except at the company inſpection, on the firſt Tueſday in May, and knapſacks may be diſpenſed with at the company trainings.

Article 31. If any non-commiſſioned officer or private of any company of artillery, cavalry, light infantry, grenadiers or riflemen, ſhall appear on any of the occaſions mentioned in the preceding article, without the uniform of the company to which he belongs, he ſhall forfeit *two dollars*.

Article 32. All excuſes for non-appearances of non-commiſſioned officers and privates, muſt be made within eight days after any training, view of arms, or other military duty, to the commanding officers of their reſpective companies; and on the delinquent's producing ſatisfactory evidence of his inability to appear, his commanding officer may excuſe him; but all commanding officers of companies are hereby forbidden from receiving any excuſe, for non-appearance, under any pretence whatever, after the expiration of the eight days allowed. And all commanding officers of companies are prohibited from receiving any excuſes from their men, for any deficiency or deficiencies of equipment, and commanding officers of companies ſhall inform, or cauſe their clerks to be informed, of all the excuſes for non-appearance which they may allow.

Article 33. Any non-commiſſioned officer or private being a legal voter of a company, who after being duly notified, ſhall unneceſſarily neglect to appear at any meeting for the choice of any officer or officers of the company to which he belongs, he ſhall, for every ſuch neglect, forfeit *one dollar*.

Article 34. All ſurgeons and ſurgeons' mates are prohibited from taking any fee or gratuity whatever, under any pretence whatſoever, from any man to whom they may give a certificate of inability to perform military duty on account of bodily infirmity. And if any ſurgeon or ſurgeon's mate, ſhall, in violation of this article, take any fee or gratuity, he ſhall be liable to be tried by court martial.

Article 35. The oldeſt aid-de-camp to each major-general, the brigade-major of each brigade, and the adjutant of each regiment, battalion or corps, ſhall conſtantly keep a correct roſter of the diviſion, brigade, regiment, battalion or corps to which they reſpectively belong.

Article

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Article 36. Theſe rules and articles ſhall be read at the head of each company on the firſt Tueſday of May, annually.

SEC. 35. *Be it further enacted*, That all fines and forfeitures incurred by non-commiſſioned officers and privates, under the proviſions of this act, the recovery of which, and the mode of the recovery of which, are not in and by this act otherwiſe provided for, ſhall be proſecuted for, and recovered by the reſpective clerks of the companies to which ſuch non-commiſſioned officer or officers, private or privates, incurring any fine or forfeiture, as aforeſaid, belong, in the manner following:

The clerk of each company, after the expiration of eight days, and within thirty days after the day of any parade of any company to which he belongs; and after the expiration of eight days, and within thirty days after the day of any meeting of the company to which he belongs, for the choice of an officer or officers, ſhall make and ſubſcribe an information againſt the offending non-commiſſioned officer or officers, private or privates of the company, who have not been excuſed by the commanding officer of the company agreeably to the proviſions of the thirty-ſecond article of the thirty-fourth ſection of this act, or who have not, within the eight days aforeſaid, paid to ſuch clerk the fine or forfeiture, or fines or forfeitures, which he or they may have incurred; which information ſhall, within the thirty days aforeſaid, be left with ſome Juſtice of the Peace, of the county in which the offending non-commiſſioned officer or officers, private or privates, reſide or reſides, which information ſhall be in ſubſtance as follows, viz.:

To A. B. Eſq. Juſtice of the Peace, in and for the county of

I the ſubſcriber, clerk of the company commanded by do hereby give information againſt the following perſon (or perſons, as the caſe may be) who being duly enrolled in ſaid company, and being duly notified to meet with ſaid company on the day of Anno domini was (or were as the caſe may be) guilty of the offences, and did incur the forfeitures ſet againſt his name (or their reſpective names, as the caſe may be).

Names.	*Offences.*	*Forfeitures.*	*Sums.*
A. B. *non-commiſſioned officer*	For unneceſſarily neglecting	has forfeited	
C. D. *private*	to appear on ſaid day	has forfeited	
E. F.	For being deficient of a on ſaid day	has forfeited	
G. H.	For being on ſaid day guilty of coming on to the parade with his loaded	has forfeited	

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I. K. { For unneceſſarily diſcharging his muſket, rifle, or piſtols, (as the caſe may be) ingoing to or returning from, or on the place of parade (as the caſe may be) without the orders of an officer, } has forfeited

L. M. { For leaving his guard, ſection, platoon, or company (as the caſe may be) without the leave of an officer } has forfeited

[And in the ſame manner, ſubſtantially, all other offences are to be ſet forth againſt offending non-commiſſioned officers and privates.] *I therefore, agreeably to my oath of office, and in compliance with the requiſitions of the law in this behalf, requeſt that you would iſſue ſummons to each of the perſons named in the above information, to appear before you, and ſhew cauſe, if any he has, why it ſhould not be adjudged that he pay the forfeiture ſet againſt his name, for the offence or offences which he is therein alledged to have committed.*

Dated at this day of in the year of our Lord { *A. B. Clerk of the company commanded by*

And the Juſtice to whom ſuch information is directed, and with whom it is left, ſhall file the ſame, and as ſoon as may be, he ſhall iſſue a ſummons to each perſon informed againſt as aforeſaid, to be ſerved at leaſt ſeven days before the time appointed for ſhewing cauſe; which ſummons ſhall be in ſubſtance as follows:

ſſ.

(L.S.) To the ſheriff of ſaid county, or either of his deputies, or either of the conſtables of the town of in the county aforeſaid, greeting.

In the name of the Commonwealth of Maſſachuſetts, you are hereby required to ſummon C. D. of in the county aforeſaid, to appear before me E. F. one of the Juſtices of the Peace for the county aforeſaid, at in on the day of at of the clock in the noon, then and there to ſhew cauſe, if any he has, why judgment ſhould not be rendered that he has forfeited [here inſert the offence, and the time when and place where it was committed.] Hereof fail not, and make due return of this writ and your doings thereon, unto myſelf, on or before the ſaid hour of the day of

Dated at aforeſaid, the day of in the year of our Lord

E. F. Juſtice of the Peace.

And when the perſon ſummoned as aforeſaid ſhall appear, either by himſelf or his attorney he may plead the general iſſue, and give

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give any ſpecial matter in evidence; and if ſuch perſon ſhall make default, or if judgment be rendered againſt him, and he neglect for two days thereafter to ſatisfy the ſame, with legal coſts, then the Juſtice of the Peace to and with whom the information ſhall have been directed and left as aforeſaid, ſhall iſſue execution in ſubſtance as follows:

Commonwealth of Maſſachuſetts, ſſ.

(L.S.) To the Sheriff of ſaid county, or either of his Deputies, or either of the Conſtables of the town of in the ſame county, greeting.

Whereas E. L. clerk of the company, commanded by in ſaid county, on the day of before J. D. Eſq. one of our Juſtices of the Peace for our county aforeſaid, recovered judgment againſt J. P. of for the ſum of fine or forfeiture, and coſts of proſecution, as to us appears of record, whereof execution remains to be done. We command you therefore that of the money of the ſaid J. P. or of his goods, or chattels, within your precinct, at the value thereof in money, you cauſe to be levied, paid and ſatisfied unto the ſaid E. L. the aforeſaid ſums, being in the whole; and alſo that out of the money, goods and chattels of the ſaid J. P. you levy twenty-five cents more for this writ, together with your own fees; and for want of ſuch money, goods or chattels of the ſaid J. P. to be by him ſhown unto you, or found within your precinct, to the acceptance of the ſaid E. L. for ſatisfying the aforeſaid ſums, we command you to take the body of the ſaid J. P. and him commit unto our gaol in B. and we command the keeper thereof accordingly to receive the ſaid J. P. into our ſaid gaol, and him ſafely to keep until he pay the full ſums above mentioned, with your fees, or that he be diſcharged by the ſaid E. L. or otherwiſe by order of law. Hereof fail not, and make return of your doings therein unto our ſaid Juſtice, within twenty days next coming. Witneſs our ſaid Juſtice at B. the day of in the year of our Lord one thouſand eight hundred and J. D.

Sec. 36. *Be it further enacted*, That it ſhall be lawful to amend the ſummons iſſued againſt any non-commiſſioned officer or private, in any ſtage of the proceedings, without paying coſts. And no clerk ſhall be liable to pay any defendant coſts, in any caſe in which the commanding officer of the company has indorſed his approval on the information of ſuch clerk. And no appeal ſhall be allowed from any judgment of a juſtice of the peace, when the forfeiture by him adjudged does not exceed ten dollars, excluſive of coſts.

Sec. 37. *Be it further enacted*, That the clerk of each company ſhall retain to his own uſe, one fourth part of all fines and forfeitures collected or recovered by him, and the reſidue he ſhall

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faithfully pay over to the commanding officer of the company, on demand; and the commanding officer of the company shall give his receipt to the clerk for all money paid over to him as aforesaid. And it shall be the duty of every commanding officer of a company to expend such part of the money paid him by the clerk as may be necessary for defraying such company expenses, as a majority of the commissioned officers of the company shall judge to be necessary.

SEC. 38. *Be it further enacted*, That the Adjutant-general and the Quarter-master-general, the Judge-advocates, Brigade-majors, Brigade-quarter-masters, and Adjutants, shall receive compensation for their services, to be allowed by the General Court; and all officers serving on military boards, courts martial and courts of enquiry, shall receive pay and rations, while necessarily employed thereon, at the same rate as when in actual service. And the adjutant-general shall make up pay rolls of such military boards, courts martial and courts of enquiry, as may be ordered by the commander in chief; and the brigade-majors shall make up the pay rolls of such courts martial and courts of enquiry as may be ordered by the commanding officers of divisions, and are holden within the brigade, to which such brigade major belongs; and the adjutant-general or brigade-major, as the case may be, shall lay the pay rolls before the General Court for allowance, and shall receive payment at the treasury, of the sums allowed, and pay the same over to the officers who performed the service.—And each major-general is hereby authorised to appoint some suitable person or persons to distribute his orders; and the person or persons so appointed, shall be allowed by the General Court, compensation for the services he or they may perform.

SEC. 39. *Be it further enacted*, That all laws heretofore made for governing and regulating the militia, be, and they are hereby repealed, excepting an act, entitled, "*An act for establishing rules and articles for governing the troops stationed in forts and garrisons within this Commonwealth, and also the militia, when called into actual service.*" *Provided nevertheless*, That all officers actually in commission, agreeably to the laws which are hereby repealed, and in grades which either are or are not established by this act, shall be continued in their command, and the clerks of companies now in office, shall be continued in office, and all actions depending in any court, by force of said laws, shall and may be prosecuted to final judgment and execution.

[This Act passed *March* 6, 1810.]

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MILLERS.

BY an Act for the ſupport and regulation of Mills, paſſed *February* 27, 1796, it is enacted as follows, viz.

That every miller ſhall be provided with ſeals and weights to weigh corn, grain and meal, to and from the mill, if required; and if he ſhall neglect to keep ſuch ſeals and weights, or refuſe ſo to weigh corn, grain and meal when required, he ſhall be fined for each neglect or refuſal, not exceeding *five dollars*; to be recovered with coſt by action of debt, by the perſon ſuing, to his uſe, before any Juſtice of the Peace of the county wherein the offence ſhall be committed.

By the ſame act it is enacted, That the toll for grinding all ſorts of grain, ſhall not exceed one ſixteenth part thereof.

MITTIMUS, or WARRANT of COMMITMENT.—See page 78, &c. See alſo ORDER of DISCHARGE.

NAILS.

IT is enacted by a law of the Commonwealth, paſſed *February* 27, 1795,

That if any perſon ſhall counterfeit any brand belonging to or proper to be uſed by the Inſpector of nails or any of his deputies, or ſhall impreſs or brand any caſk of nails with any brand of ſuch inſpector or his deputy, or with any counterfeit brand as aforeſaid, or empty the nails out of any caſk branded by the Inſpector or his deputy, and put into ſaid caſk any nails of different quality, for ſale or exportation, each perſon ſo offending ſhall for each caſk forfeit and pay the ſum of *ten dollars*; to be recovered in any court proper to try the ſame; one half thereof to the uſe of the proſecutor, and the other half to the uſe of the poor of the town from whence ſuch nails may be exported.

NUISANCES.

An Act for preventing Common Nuiſances.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That the Selectmen of *Boſton, Salem, Newburyport* and *Charleſtown*, reſpectively, and of every other town in this Commonwealth where the Selectmen thereof, together with any two Juſtices of the Peace in

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in the ſame county, ſhall judge ſuch regulation to be neceſſary, ſhall, from time to time, as occaſion ſhall be, aſſign ſome certain places for the exerciſing of any of the trades or employments of killing creatures for meat, diſtilling of ſpirits, trying of tallow or oil, currying of leather, and making earthen ware, and forbid and reſtrain the exerciſe of either of them in other places not ſo approved and allowed; and all aſſignments of ſuch houſes or places by Selectmen, with the aſſent of two or more Juſtices, for the exerciſe of any of the occupations aforeſaid, ſhall be entered in the town book where ſuch Selectmen reſpectively belong; and alſo made known by having notifications thereof poſted up in ſome publick places in the ſame town.

And be it further enacted, That when any houſe aſſigned for the exerciſing of either of the aforeſaid trades or employments becomes a nuiſance by reaſon of offenſive and ill ſtenches proceeding from the ſame, or becomes otherwiſe hurtful or dangerous to the neighbourhood or travellers, it ſhall and may be lawful to and for the Court of General Seſſions of the Peace within the county, to cauſe inquiry to be made thereinto by a jury, and to ſuppreſs ſuch nuiſance by prohibiting and reſtraining the further uſe thereof for the exerciſe of either of the aforeſaid trades or employments, under a fine not exceeding *three pounds* a month, to the uſe of the poor of the town; or by cauſing ſuch nuiſance to be removed or prevented, as the ſaid Juſtices in Seſſions, in their diſcretion, ſhall think expedient and neceſſary.

And be it further enacted, That if any diſtiller, tallow chandler, manufacturer of oil, currier, butcher or potter, ſhall make uſe of any houſe or place, other than ſuch as are or may be aſſigned and permitted in conſequence of this act, for the exerciſe of the employments aforeſaid, or any of them, the perſon ſo offending ſhall forfeit and pay a fine of *five pounds*; one half thereof for the uſe of this Commonwealth, and the other half part for the uſe of him or them that ſhall proſecute and ſue therefor, by action of debt, in the Court of Common Pleas; and if convicted on the preſentment of a Grand Jury in the Court of Seſſions or Supreme Judicial Court, the whole penalty ſhall enure to the uſe of the Commonwealth; and in either caſe the offender ſhall alſo enter into recognizance in ſuch ſum as the ſame court ſhall order, not to improve ſuch Building for either of the ſaid purpoſes for the term of three years then next; and in default of entering into ſuch recognizance, to be committed to the common gaol; or ſuch building may be taken down by the order of the ſame court, as being a common nuiſance, and the materials, or ſuch part of them as may be neceſſary, ſold at publick auction, to defray the expenſes and charges; and in caſe the materials ſhall be inſufficient, the reſidue of the charges to be levied by diſtreſs and ſale of the offender's goods and chattels.

And be it further enacted by the authority aforeſaid, That all fences or buildings ſet up and erected on lands now uſed and improved

as

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as publick landing places, or such as may be hereafter laid out and appropriated to that use, without lawful permission therefor, shall be esteemed nuisances, and may be abated as such.

[This Act passed *June* 7, 1785.]

An Act in addition to an Act, entitled, "An Act to prevent common Nuisances."

SECT. 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That when any house assigned for the exercising of either of the trades or employments mentioned in the act aforesaid, becomes a nuisance by reason of offensive and ill stenches proceeding from the same, or becomes otherwise hurtful or dangerous to the neighbourhood or travellers; it shall be lawful for any person or persons who may be aggrieved thereby, to give notice thereof to the proprietor or occupant of such house so deemed to be a nuisance; and if the proprietor or occupant shall not forthwith remove the same nuisance, and if upon trial as herein after provided, the same shall be considered and deemed a nuisance; the owner, proprietor or occupant of such house shall forfeit and pay the sum of *twenty dollars* for each and every month which the said nuisance shall continue, after such notice as aforesaid, to be recovered by action of the case, by any person who shall first sue for the same; and in such action it shall be lawful for the defendant to tender the general issue, and give any special matter in evidence: and if upon such trial it shall appear to the jury who shall try the same cause, that the said house so complained of is not a nuisance, it shall be their duty to acquit the defendant, and he shall be entitled to his costs.

SECT. 2. *Be it further enacted,* That any person or persons who may be injured by any such nuisance, either in his comfort or the enjoyment of his estate, may have and maintain his special action on the case, for the injury and damage which he or they may sustain by reason of such nuisance; in which action it shall and may be lawful for the defendant to plead the general issue, and give any special matter in evidence.

[This act passed *March* 4, 1800.]

An Act directing the proceedings for the speedy removal of Nuisances.

Whereas the laws now in force are inadequate to so speedy a removal of Nuisances as the exigencies of the publick may require: Therefore,

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the passing of this act, any two Justices of the Peace, *quorum unus,* shall be and they hereby are authorised to inquire,

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quire, by a jury, as is hereinafter directed, into all nuisances erected, or which may hereafter be erected by any person or persons; and if it be found upon such inquiry, that a nuisance shall have been erected, created or continued by any person or persons, then, that such Justices shall cause the same to be abated and removed.

SECT. 2. *And be it further enacted*, That any person or persons may make out his or their complaint in writing, directed to any two Justices of the Peace, *quorum unus*, of any existing nuisances, and they shall, as soon as such complaint is exhibited to them, make out their warrant, under their hands and seals, directed to the Sheriff of the same county, commanding him, in behalf of the Commonwealth, to cause to come before them twelve good lawful men of the same county, who shall be drawn in equal proportions out of the Jury-box for the Supreme Court, by the selectmen of the three towns next adjoining to the town in which such nuisance may be, at a meeting of such selectmen, to be holden forthwith, for that purpose, upon the requisition of such Sheriff; and they shall be empowered to inquire into the nuisance complained of, which warrant shall be in the form following, *viz.*

FORM

Of the Warrant.

(L.S.) H——ff.

To the Sheriff of the County of , Greeting.

Whereas complaint is made to us, the subscribers, two of the Justices of the Peace, within and for the county of , *quorum unus*, by of in the same county, that , of upon the day of , at with force and arms did unlawfully erect, or cause to exist a nuisance of the following description, *to wit*: [*Here particularly describe the nuisance*;] and the same nuisance unlawfully and unjustly, and with like force and arms doth still keep up and continue. You are therefore, in behalf of the Commonwealth, commanded to cause to come before us upon the day of , at in the same county, twelve good and lawful men of your county, each one of whom having freehold of the yearly value of *ten dollars*, to be impannelled and sworn to inquire into the nuisances aforedescribed.

Given under our hands and seals, this day of , in the year of our Lord

R. S. } *Justices of the Peace,*
N. O. } *quorum unus.*

And the said Justices shall make out their summons to the party complained against in the form following:

FORM

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FORM

Of the Summons.

Commonwealth of Maſſachuſetts.

H——ſſ.

To the Sheriff of the county of , or either of his Deputies Greeting.

We command you that you ſummon to appear before the ſubſcribers, two of our Juſtices of the Peace, within and for our ſaid county, to , *quorum unus*, at a place called in D—, in the ſaid county, at o'clock in the noon; then and there to anſwer to the complaint of to them exhibited; wherein it is ſtated that [*Here recite the complaint,*] and you are to make return of this writ, with your doings therein, unto our ſaid Juſtices, upon or before the ſaid day of .

Witneſs our ſaid Juſtices, the day of , in the year of our Lord

R. S. }
N. O. }

Which ſummons ſhall be ſerved upon the party complained againſt, by reading the ſame in his hearing, or by a copy thereof left at his uſual place of abode, fourteen days excluſively, before the day of trial; and if the party ſhall not appear to defend, the Juſtices ſhall proceed to the inquiry in the ſame manner as if he were preſent; and when the Jury ſhall appear, the Juſtices ſhall, lay before them the exhibited complaint, and ſhall adminiſter the following, oath *viz.*

Foreman's Oath.

"*You, as foreman of this Jury, do ſolemnly ſwear, that you will well and truly try whether the complaint of now laid before you, be true according to your evidence.* So help you GOD."

The other Jurors' Oath.

"*The ſame oath which your foreman hath taken on his part, you and each of you ſhall well and truly obſerve and keep.*

So help you GOD."

And if the Jury ſhall find the complaint to be true, then they ſhall return their verdict in the form following:

FORM

Of the Verdict.

At a court of Inquiry, held before R. S. and N. O. Eſq'rs. two of the Juſtices of the Peace, within and for the ſaid county of , *quorum unus*, at D—, in the ſaid county of upon the day of , in the year of our Lord , the Jury upon their oaths do find, that is a nuiſance, and that the ſame, on or before the day of at , with force

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force and arms, unjuſtly and unlawfully was erected, or cauſed to exiſt, by of , and that the ſaid with like force and arms, unjuſtly and unlawfully ſtill continues and keeps up the ſame nuiſance: Wherefore the Jury find upon their oaths aforeſaid, that the ſame nuiſance ought to be abated and removed without delay.

And if by accident or challenge, there ſhall happen not to be a full jury, the Sheriff ſhall fill the pannel, *de talibus circumſtantibus*, as in other caſes: And if the Jury, after a full hearing of the cauſe, ſhall find the complaint laid before them ſupported by evidence, they ſhall all ſign their verdict, in form aforeſaid, otherwiſe the defendant ſhall be allowed his legal coſts, and have his execution therefor under the hands and ſeals of ſaid Juſtices.

SECT. 3. *And be it further enacted*, That if the Jury, ſhall return their verdict, ſigned by the whole pannel, that the complaint is ſupported, the Juſtices ſhall enter upon judgment for the complaint to have the nuiſances abated and removed, and ſhall award their writ accordingly in form following:

FORM

Of the Writ of Removal.

Commonwealth of Maſſachuſetts.

H——ſſ.

To the Sheriff of the county of , or to either of his Deputies, Greeting.

Whereas at a Court of Inquiry for the abatement and removal of a nuiſance, held at D—, in our county of , upon the day of in the year of our Lord , before Eſquires, two Juſtices of the Peace for the county of , *quorum unus*, the Jurors impannelled and ſworn by our ſaid Juſtices, did return their verdict in writing, ſigned by each of them, that the aforeſaid, deſcribed as follows, [*as in the verdict*] is a nuiſance, and that the ſame on or before the day of at , with force and arms, and unjuſtly and unlawfully was erected and cauſed to exiſt, by of , and that the ſaid with like force and arms, unjuſtly and unlawfully ſtill continues and keeps up the ſame nuiſance; whereupon, it was conſidered by our ſaid Juſtices that the ſaid nuiſance be abated and removed: We therefore command you, that, taking with you the force of the county, if neceſſary, you cauſe the ſaid nuiſance forthwith to be abated and removed; and alſo that you levy of the goods, chattels or land of the the ſum of being coſts taxed againſt him in the trial aforeſaid, together with , being the ſum eſtimated by the ſaid Juſtices as neceſſary coſts which will ariſe in the abatement and removal of ſaid nuiſance, together with *thirty-three cents* more for the writ, and alſo your own lawful fees; and for want of ſuch goods, chattels or lands of the

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the said , by you to be found, you are to take the body of the said and him commit to our gaol in , in our said county of H. there to remain until he shall pay the sums aforesaid together with all fees on the service of this writ, or until he is delivered by order of the law; and make return of this writ with your doings thereon, within thirty days next coming.

Witness our said Justices at D. aforesaid, the day of , in the year of our Lord

R. S. }
N O }

Provided nevertheless, That the party complained against as aforesaid, may, in person or by attorney, appear before the said Justices, and may there give in evidence on the trial aforesaid, under the general issue, any special matter or thing of which he could avail himself, under any special plea in the regular courts of law: *Provided also*, That when judgment shall be entered up against him upon the verdict of the Jury aforesaid, he may there appeal from the judgment of the said Justices to the next Supreme Judicial Court to be holden in the same county; which appeal, when so entered, shall stop all further proceedings of the said two Justices and no writ on said judgment for abatement and the removal, shall issue, except as herein after directed:—And it shall be the duty of the person appealing as aforesaid from the judgment of the said Justices, to procure attested copies of all the papers in said complaint, under the hands of the said Justices, and to enter his appeal at the next Supreme Judicial Court; and if he shall fail of so doing, the judgment of the said two Justices shall be in full force against him; and they are hereby authorised and empowered, in such case, to issue their writ for abatement and removal in the same manner as if no appeal had been entered.

Sect. 4. *And be it further enacted by the authority aforesaid*, That the said Supreme Judicial Court be and they hereby are authorised to take cognizance of said complaint and judgment, and to try by the jurors returned to serve in their said court, on the jury of trials, the truth of the facts alleged in said complaint, under the issue aforesaid; and if the said Jury shall find by their verdict, the facts alleged in said complaint to be true, the said court are further authorised to cause and order the said nuisance to be abated and removed, and to award against the party complained of, such sums as may be necessary to defray the expense of removing said nuisance: But if the Jury aforesaid, shall find that the facts alleged in said complaint are not supported, the party complained of shall recover against the complainant his legal costs; and execution shall issue accordingly.

Sect. 5. *And be it further enacted by the authority aforesaid*, That the same costs shall be allowed by the said two Justices, and the Supreme Judicial Court, to parties and witnesses, as are allowed in the regular courts of law; and that the said two Justices, *quorum*

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nus, shall have the same fees, and be allowed the same sums for the trial aforesaid, as are allowed to Justices in the process of forcible entry and detainer.

Sect. 6. *And be it further enacted by the authority aforesaid*, That the proceedings under this act shall not bar any party from having and maintaining their private actions for any injury which they may have sustained by reason of the premises.

[This act passed *June* 19, 1801.]

OATHS.

IT being the duty of Justices of the Peace to administer oaths in divers cases, I think it proper to insert the forms of such as are to be taken by the officers and persons hereafter mentioned, viz.

Administrators, Executors and Guardians, previous to their selling Real Estate.

I, E B. do solemnly swear, that in disposing of the estate lately belonging to , now deceased I will use my best skill and judgment in fixing on the time and place of sale; and that I will exert my utmost endeavours to dispose of the same in such manner as will produce the greatest advantage to all persons interested therein, and that without any sinister views whatever.

Appraisers of Estate, appointed by the Judge of Probate.

Faithfully and impartially to perform the service to which you are appointed by the above (*or* within) warrant or commission.

Assay Master.

I do solemnly swear, that I will, to the best of my skill, prove and make trial of all worms and still heads within the town of , that are used or designed to be made use of in distilling, that shall come to my knowledge, for which there is no certificate in the town clerk's book, and will make a true and faithful report thereof to the town clerk for the time being. *So help me GOD.*

Assessors.

You A. B. one of the assessors for the of , for the year ensuing, do swear, that you will proceed equally and impartially, according to your best skill and judgment, in assessing and apportioning all such rates and taxes as you may according to law be directed to assess and apportion during that time.

So help you GOD.

Clerks of the Market.

You swear that you will from time to time diligently and faithfully discharge and execute the office of clerk of the market, within

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in the limits whereto you are appointed for the enſuing year, and until another be choſen in your place: and that in and by all the particulars mentioned in the laws whereto your office hath relation; and that you will do therein impartially according to law, without fear or favour. *So help you GOD.*

Collectors of Taxes.

You A. B. being appointed a collector of taxes within the of for one year next following, do ſwear, that you will levy and collect, with what ſpeed you can, all ſuch rates and aſſeſſments for which you ſhall have ſufficient warrants according to law; rendering an account thereof and paying the ſame according to the direction in your warrant. *So help you GOD.*

Commiſſioners appointed by the Judge of Probate to receive Claims againſt an Eſtate repreſented inſolvent.

Faithfully to diſcharge the truſt repoſed in them.

Conſtables.

Whereas you A. B. are choſen conſtable within the town of , for one year now following, and until others be choſen and ſworn in your place, do ſwear that you will carefully intend the preſervation of the peace, the diſcovery and preventing all attempts againſt the ſame; that you will duly execute all warrants which ſhall be ſent unto you from lawful authority, and faithfully attend all ſuch directions in the laws and orders of court, as are or ſhall be committed to your care, that you will faithfully and with what ſpeed you can, collect and levy all ſuch fines, diſtreſſes, rates, aſſeſſments, and ſums of money, for which you ſhall have ſufficient warrants according to law; rendering an account thereof, and paying the ſame according to the direction in your warrant: and with like faithfulneſs, ſpeed and diligence, you will ſerve all writs, executions and diſtreſſes, in private cauſes betwixt party and party, and make return thereof duly, in the ſame court where they are returnable; and in all theſe things you ſhall deal faithfully, whilſt you ſhall be in office, without any ſiniſter reſpects of favour or diſpleaſure. *So help you GOD.*

Cullers of Dry Fiſh.

To the faithful diſcharge of their truſt.

Cullers of Staves and Hoops.—See Viewers, &c.

Deer Reeves.

To the faithful diſcharge of their truſt.

Diviſers of Eſtates appointed by the Judge of Probate.

Faithfully and impartially to perform the ſervice to which they are appointed, &c.

Dower

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Dower.—Perſons appointed by the Sheriff to ſet forth a Woman's Dower.

To ſet forth the ſame equally and impartially, without favour or affection, as conveniently as may be.

Executors, previous to their ſelling Real Eſtate.—See Adminiſtrators.

Fence Viewers.

As other town officers are ſworn, to the faithful diſcharge of the duties of their office.

Field Drivers.

To the faithful diſcharge of their truſt.

Gaugers, Viewers and Surveyors of Caſks made for Tar, Pitch, Turpentine and Roſin.

You . ſwear, diligently and faithfully to intend the office of , that you are appointed unto, within the town of , and to diſcharge the duty and truſt thereby required of you impartially, after your beſt ſkill and cunning, according to law.

So help you God.

Gaugers of Tar, &c.—See Surveyors.

Guardians, previous to their ſelling Real Eſtate.—See Adminiſtrators.

Hog Reeves.

To be ſworn as "other town officers."

Inſpectors of Loaf Sugar.

To the faithful diſcharge of the duties of their office.

Inſpectors of Nails.

To the faithful diſcharge of the duties of their office.

Inſpectors of Tobacco.

To the due and impartial execution of their truſt.

Meaſurers of Salt.

To the faithful diſcharge of their office.

Meaſurers and Sealers of Wood.

They ſhall be ſworn in like manner as other town officers, to the faithful and diligent diſcharge of their office.

Meaſurers of Wood and Bark.

To the faithful and diligent diſcharge of their office.

Packers of Beef, &c.—See Searchers.

Pilots.

You A. B. do ſwear [*or affirm as the caſe may be*] that you will from time to time, truly and faithfully perform the duties of a pilot for the harbour or port of , according to your beſt ſkill and judgment, agreeably to the laws of this Commonwealth.

So help you GOD.

Priſoners for Debt.—See under the article Poor Priſoners.

Provers

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Provers of Butter.

They are to be ſworn to the due and impartial execution of their truſt.

Sealers of Moulds for making Bricks.—See Viewers.

Sealers of Leather—See Searchers.

Sealers of Wood.—See Meaſurers.

Sealers of Weights and Meaſures.

They are to be ſworn "as other town officers are."

Searchers and Packers of Barreled Beef, Pork and Fiſh.

To the faithful execution of their truſt.

Searchers and Sealers of Leather.

The ſame oath as that of clerk of the market.—See page 210.

Searchers of Tar, &c.—See Surveyors.

Surveyors of Flax Seed.

To the due and impartial execution of their truſt.

Surveyors of Highways.

To be ſworn as other town officers.

Surveyors of Lumber.

To the faithful performance of the truſt repoſed in them.

Surveyors, Gaugers and Searchers of Tar, Pitch, Turpentine and Roſin.

The ſame oath as that for Gaugers of Caſks for Tar, &c.—*See page* 212.

Surveyors of Caſks for Tar, &c.—See Gaugers.

Town Clerk.

A Town Clerk ſhall be under oath truly to record all votes paſſed in the meeting at which he is choſen, and other town meetings during the year, and until another clerk ſhall be choſen and ſworn in his ſtead, and alſo faithfully to diſcharge all the other duties of his ſaid office.

Town Treaſurer.

To the true and faithful diſcharge of his truſt.

Tythingmen—See page 155.

Viewers and Sealers of Moulds for the making of Bricks.

To the faithful execution of their office.

Viewers and Cullers of Staves and Hoops.

They muſt be under oath, faithfully to diſcharge their office.

Viewers of Caſks for Tar, &c.—See Gaugers, &c.

Weighers of Onions.

To the faithful performance of their duty.

Wood

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Wood Corders.

They are to be ſworn in like manner as other town officers, to the faithful diſcharge of their office.

ORDER OF DISCHARGE.

WHEN a perſon committed to gaol for want of bail, ſhould afterwards find ſureties, the Juſtice who recognizes him ſhould give a certificate thereof to the gaol keeper, therein ordering his diſcharge, as follows:

FORM

Of an Order to diſcharge a Priſoner who may be committed for want of Bail.

D —— ſſ.

To the Keeper of the gaol in in ſaid county.

Whereas A. B. of hath been committed to your cuſtody in ſaid , by virtue of a warrant from S. T. Eſq. one of the Juſtices of the Peace in and for the ſaid county of D. ſetting forth, &c. [*here mention the ſubſtance of ſaid mittimus*] and whereas the ſaid A B hath this day entered into a recognizance with ſureties, agreeably to the order of the ſaid Juſtice as aforeſaid, you are hereby certified of the ſame, and ordered to diſcharge the ſaid A. B. from your cuſtody in ſaid gaol, if he be not confined for any other cauſe, he paying to you your legal fees.

Given under my hand this day of , A. D. 18

S. T Juſtice of the Peace.

PEDLARS and PETTY CHAPMEN.—See HAWKERS, &c.

POOR.

An Act providing for the Relief and Support, Employment and Removal of the Poor, was paſſed February 26, 1794.

THE firſt ſection of this act empowers towns to chooſe overſeers of the poor, (any number not exceeding twelve) and provides that where none are ſpecially choſen, the ſelectmen ſhall be overſeers, *ex officio.*

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The ſecond ſection requires the overſeers to take the overſight of poor and indigent perſons, and ſee that they are ſuitably relieved, ſupported and employed

The third ſection ſubjects their kindred, in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by conſanguinity if of ſufficient ability, to be holden for their ſupport.

SECT. 4. *And be it further enacted*, That ſaid overſeers be and they hereby are empowered, from time to time, to bind out, by deed indented or poll, as apprentices, to be inſtructed and employed in any lawful art, trade or myſtery, or as ſervants to be employed in any lawful work or labour, any male or female children, whoſe parents are lawfully ſettled in, and become actually chargeable to their town or diſtrict; alſo, whoſe parents, ſo ſettled, ſhall be thought by ſaid overſeers to be unable to maintain them, (whether they receive the alms, or are chargeable or not) *Provided*, they be not aſſeſſed to any town or diſtrict charges; and alſo all ſuch who, or whoſe parents reſiding in their town or diſtrict, are ſupported there at the charge of the Commonwealth, or whoſe parents are unable to ſupport them as aforeſaid, to any citizen of this Commonwealth—that is to ſay, male children till they come to the age of twenty-one years and females till they come to the age of eighteen, or are married; which binding ſhall be valid and effectual in law, as if ſuch children had been of the full age of twenty-one years, and had by a like deed bound themſelves, or their parents been conſenting thereto: Proviſion to be made in ſuch deed for the inſtruction of male children, ſo bound out, to read, write and cypher, and of females to read and write, and for ſuch other inſtruction, benefit and allowance, either within or at the end of the term, as to the overſeers may ſeem fit and reaſonable.

The fifth ſection makes it the duty of overſeers to inquire into the uſage of children bound out as aforeſaid, and complain to the Court of Common Pleas againſt the maſters who abuſe them.

And in caſe of elopements, any ſuch apprentice or ſervant may be apprehended by any Juſtice of the Peace, of the county where he is bound or where he may be found, upon complaint of the maſter, or any other on his behalf, and returned to his maſter by any perſon to whom the warrant may be directed, or may be firſt ſent to the houſe of correction at the Juſtice's direction. And every perſon enticing any ſuch apprentice or ſervant to elope from his maſter, or harbouring him, knowing him to have eloped, ſhall be liable to the maſter's action for all damages ſuſtained thereby. And the Court of Common Pleas, either in the county where the overſeers binding, or the maſter of any apprentice or ſervant bound, live, may alſo upon complaint of ſuch maſter, for groſs miſbehaviour, diſcharge ſuch apprentice or ſervant from his apprenticeſhip

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prenticeſhip or ſervice, after due notice to ſuch overſeers and hearing thereupon.

The ſixth ſection empowers overſeers to bind out perſons above twenty-one years of age, who live idly and have no viſible means of ſupport, whether married or unmarried.

The ſeventh ſection provides for the relief of ſuch perſons who may think themſelves aggrieved, by application to the Court of Common Pleas.

The eighth ſection makes proviſion reſpecting ſuch poor as live without the bounds of incorporated towns.

And for the prevention of poverty as well as lewdneſs,

SECT 9. *Be it further enacted*, That any perſon who ſhall be ſuſpected of keeping a houſe of ill fame, reſorted to for the purpoſe of proſtitution or lewdneſs, may be apprehended by warrant from any Juſtice of the Peace in the county, upon complaint of the overſeers of the town or diſtrict wherein ſuch houſe ſhall be; and upon conviction of ſuch offence before ſuch Juſtice, or before the Court of General Seſſions of the Peace, or preſentment of the Grand Jury, may be ordered to the houſe of correction, for a term not exceeding one month; and after ſuch conviction, ſhall not be allowed to keep lodgers or boarders, in any town or diſtrict without the licenſe of the overſeers of the poor thereof.

The tenth ſection makes it the duty of overſeers to provide for ſtrangers, who fall into diſtreſs, and ſtand in need of relief.

SECT. 11. *And be it further enacted*, That all perſons actually chargeable, or who through age or infirmity, idleneſs or diſſoluteneſs, are likely to become chargeable to the places wherein they are found, but in which they have no lawful ſettlement, may be removed to the places of their lawful ſettlements, if they have any within the Commonwealth: And in order to effect ſuch removal, (and alſo to recover the expenſes incurred for the relief of ſuch perſons, if ſaid overſeers chooſe that mode in preference to a civil action) ſaid overſeers may apply by complaint, to any Juſtice of the Peace in their county, not an inhabitant of their town or diſtrict, which complaint may be in ſubſtance, as follows:

To , a Juſtice of the Peace, in and for the county of .

The town of in the ſaid county, by the ſubſcribers, overſeers of their poor, complain and ſhew, That now reſident in ſaid town, is poor and become chargeable to ſaid town; and that his lawful ſettlement is in in the county of : Wherefore your complainants pray, that after a due courſe of proceedings had, the lawful ſettlement of ſaid may be adjudged to be in ſaid town of , and that he may be removed thither by warrant accordingly. Your complainants further pray judgment for damages, for expenſes incurred on account of ſaid , an account

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account thereof is annexed, and for ſuch as may accrue till the time of judgment, and for coſts.

Dated at ſaid , the day of , A. D. 18

A. B. &c. Overſeers.

Upon which complaint, ſuch Juſtice ſhall make out and annex thereto a ſummons, directed to the Sheriff or his deputy, of the county wherein the town to be ſummoned is, in ſubſtance as follows:

——ff. To the Sheriff of the county of , or his Deputy, Greeting.

(L.S.) In the name of the Commonwealth of Maſſachuſetts, you are hereby required to ſummons the town of in ſaid county of , to appear if they ſee fit, before me the ſubſcriber, one of the Juſtices of the Peace, in and for ſaid county of , on the day of , at of the clock in the noon, to ſhew cauſe if any they have, why the prayer of the above written complaint ſhould not be granted, by leaving the atteſted copy thereof, and of this ſummons, with the overſeers of the ſaid town of , or ſome one of them, thirty days before ſaid day of , and make return hereof, and of your doings herein, unto me the ſaid Juſtice, on or before the ſaid day of . Hereof fail not.

Given under my hand and ſeal, the day of , in the year of our Lord, . T. F.

And ſuch officer ſhall ſerve and return the ſame, his being an inhabitant of the town to be ſummoned notwithſtanding, for the ſame fees, as for other writs of ſummons. And ſuch Juſtice ſhall ſummon the party to be removed, and other witneſſes, and may, if he ſee cauſe, compel the appearance of the former, by warrant, to be examined; and ſhall hear his objections to ſuch removal, and may for good cauſe continue the proceſs once, not exceeding three months; and after due examination and hearing, whether the town ſummoned appears or not, ſhall proceed to give judgment for, or againſt the complainants, and make a record thereof in ſubſtance as follows:

——ff. At a court held before me, , Eſq. a Juſtice of the Peace, in and for the county of , at in ſaid county, on the day of , in the year of our Lord one thouſand eight hundred and , the town of , in the county of , complainants, againſt the town of , in the county of , ſhewing that , now reſident in ſaid town of , is poor , and become chargeable to that town, (*or*, is likely to become chargeable, *as the fact may be*) and that ſaid town of is the place of his lawful ſettlement, and praying it may be ſo adjudged, and that he may be removed thither, (and for damages for expenſes incurred on account of ſuch pauper, or that may be incurred, and for coſts.) The parties appear (*or* the

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complainants appear, but the said town of , although solemnly called, doth not appear, but makes default, *as the case may be*) and after due examination and hearing, and on due consideration of the premises had, I do adjudge the same to be true, and I do also adjudge that the lawful settlement of the said is in the said town, of , and that he be removed thither, and that the complainants recover costs, (*or* that the complainants recover the sum of damages, for expenses incurred to this time for the support of said , *as the case may require*) (*or* if in favour of the town complained of, say, I do adjudge that the said is not likely to become chargeable to said town of , or that the lawful settlement of said is not in said town of , and that the said town of recover costs.) Recorded by me,

Justice of the Peace.

No costs, however, to be awarded for such town if defaulted; but if the complaint be not entered, or be discontinued, or not prosecuted, the town complained of appearing, and praying therefor, shall recover costs. And upon judgment of removal, such Justice may issue his warrant of removal, directed to, and to be executed by any constable of the town from whence the person is to be removed, or to any particular person by name in the following form.

D——ff.

To any constable of the town of in the county of , or to Greeting.

(L.S.) Whereas at a court held on before me, , Esq. a Justice of the Peace, in and for the said county of , on the day of , it was adjudged by me the said Justice, that , now resident in said town of , is chargeable (*or* likely to become chargeable, *as the case may be*) thereto; that his lawful settlement is in the town of in the county of , and that he be removed thither.

I do therefore in the name of the Commonwealth of Massachusetts, hereby authorise and require you forthwith to take, remove and convey by land or water, as may be most convenient, the said to the said town of , and him deliver to the overseers of the poor thereof, or some one of them, who are hereby required to receive and provide for him, as an inhabitant of that town. And of this warrant and of your doings herein, you are to make return to me, as soon as may be, after you shall have executed the same.

Given under my hand and seal the day of , in the year of our Lord one thousand eight hundred and .

Justice of the Peace.

And

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And ſuch overſeers ſhall be obliged to receive and provide for ſuch perſon accordingly; and ſaid Juſtice may alſo award execution for damages and coſts; and may tax, in coſts, a reaſonable ſum for the expenſe of removal; and the execution may be iſſued to, and may be executed by a proper officer, in the county where the town is, againſt which it iſſues. And in all the proceedings aforeſaid, the word *diſtrict* ſhall be inſerted inſtead of the word *town*, where the caſes require it.

SECT. 12. *Provided always*, That either party, as alſo any perſon who ſhall be adjudged likely to become chargeable, and ordered to be removed, aggrieved at the judgment of ſuch Juſtice, may appeal therefrom to the next Court of Common Pleas, to be holden in and for the ſame county, and ſhall produce copies, and enter and proſecute the ſame as other appeals are. And ſaid court ſhall hear and determine the ſame without a Jury, and may award like warrant for removal, and like execution for damages and coſts, *mutatis mutandis*; or may on complaint affirm the judgment of the Juſtice with additional damages and coſts, where the appeal is not proſecuted, and carry ſuch judgment into execution.

SECT. 13. *And be it further enacted*, That ſuch complaint may be originally made by ſaid overſeers, if they ſee fit, to the Court of Common Pleas in their county, by filing the ſame with the clerk of ſaid court, and procuring a like ſummons from him, *mutatis mutandis*, and cauſing the ſame to be ſerved in time and manner as aforeſaid, as alſo ſummons for the party to be removed and for witneſſes; and ſuch court, upon ſuch complaint, ſhall proceed to hear, determine, adjudge and grant warrant and execution, in the ſame manner as in caſes coming before them by appeal; and in all their adjudications in the premiſes, they ſhall ſtate the facts upon which their judgments are founded, to the end that errour therein, if any, may be corrected by writ of errour in the Supreme Judicial Court, to which either party aggrieved ſhall be entitled, if purchaſed within a year, but not otherwiſe, and upon which, if judgment be reverſed, ſuch judgment ſhall be given as ought to have been given below, and the plaintiffs in errour ſhall be reſtored to all they loſt by ſuch erroneous judgment, with coſts; but if the judgment be affirmed, the defendants ſhall recover coſts. And ſaid Supreme Judicial Court may ſend to ſaid Courts of Common Pleas, and require them to ſtate other facts, when it ſhall appear by ſuggeſtion or otherwiſe that ſome material ones were omitted in the ſtatement aforeſaid, or to explain ſuch as do not appear to the court to be clearly ſtated; unleſs a new ſtatement be agreed to by the parties. And depoſitions may be uſed before the Juſtice as well as Court of Common Pleas, on the trial of ſuch complaints, when taken legally and for legal cauſe. And when expenſes for ſupport of a pauper are prayed for in ſuch complaint, the ſame complaint may be proceeded upon to judgment ſo far as reſpects

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respects his settlement, and such expenses; the decease of the pauper pending the complaint notwithstanding. But all complaints and suits for removal of paupers, or recovery of expenses for their support to be made and prosecuted by the town of *Boston*, in the county of *Suffolk*, shall be made and prosecuted either in the county of *Middlesex* or *Norfolk*, and all such suits and complaints to be made and prosecuted by the town of *Sherburne*, in the county of *Nantucket*, or by any town in the county of *Duke's County*, shall be made and prosecuted either in the county of *Bristol* or *Barnstable*.

SECT. 14. *Provided always, and be it further enacted*, That said overseers may in all cases, if they judge it expedient, previous to any such application to any Justice of the Peace or Court of Common Pleas, send a written notification, stating the facts relating to any person actually become chargeable to their town or district to one or more of the overseers of the place where his settlement is supposed to be, and requesting them to remove him, which they shall have power to do by a written order directed to any particular person by name, who is hereby authorised and required to obey the same; and if such removal is not effected nor objected to by them in writing after such notice, to be delivered in writing within two months after such notice to the overseers of the town or district requesting such removal, or to some one of them, then such overseers may remove such person by land or water, as is most convenient, by a written order directed to and to be served by any person who shall be particularly mentioned in such order, to said place of his supposed settlement, the overseers whereof shall be obliged to receive and provide for him, and their town or district shall be liable for the expenses of his support and removal, to be recovered by action as aforesaid, by the town or district incurring the same, and shall be barred from contesting the question of settlement with the plaintiffs in such action. And if any person lawfully removed, agreeably to this act, to the place of his lawful settlement within this Commonwealth, shall voluntarily return to the town or district from which he was removed, without their consent, he shall he deemed a vagabond, and upon conviction thereof before any Justice of the Peace in the same county, may be sent to the house of correction.

SECT. 15. *And be it further enacted*, That said overseers shall always relieve and support, and in case of their decease, decently bury all poor persons residing or found in their towns or districts, having no lawful settlements within this Commonwealth, when they stand in need, and may employ them as other paupers may be, the expense whereof may be recovered of their relations, if they have any chargeable by law for their support, in manner herein before pointed out; otherwise it shall be paid out of the treasury of the Commonwealth by warrant from the Governour, by and with advice of Council, an account thereof having been first exhibited to and examined and allowed by the General Court. And

upon

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upon complaint of such overseers, any Justice of the Peace in their county may, by warrant directed to and which may be executed by any constable of their town or district, or any particular person by name, cause such pauper to be sent and conveyed, by land or water, to any other state, or to any place beyond sea where he belongs, if the Justice thinks proper, if he may be conveniently removed at the expense of the Commonwealth; but if he cannot be so removed, he may be sent to and relieved, and employed in the house of correction or work house, at the publick expense. And every town and district shall be holden to pay any expense which shall be necessarily incurred for the relief of any pauper, by any inhabitant not liable by law for his or her support, after notice and request made to the overseers of the said town or district, and until provision shall be made by them.

Sect. 16. *And be it further enacted*, That in all actions and prosecutions, by complaint founded on this act, for or against any town or district, or against any individual, the overseers of the poor thereof, or any person by writing under their hands appointed, shall and may appear, prosecute or defend the same to final judgment and execution, in behalf of such town or district, and every act or thing required or authorised by them to be done by this act, may be done by them or the major part of them.

The seventeenth section contains a penalty for bringing poor or indigent persons into any town wherein they are not lawfully settled.

The eighteenth section prohibits masters of vessels from bringing persons of an infamous or dissolute character.

The nineteenth section requires them to make report of their passengers to the overseers.

The twentieth and last section repeals former acts.

POOR PRISONERS, CONFINED FOR DEBT.

An Act for the Relief of Poor Prisoners, who are committed by Execution for Debt.

BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That when any person, standing committed by force of any execution issuing from any court in this Commonwealth, on a judgment recovered by any person, shall complain that he or she hath not estate sufficient to support him or her in prison, the gaoler or keeper of such prison, shall, on such complaint, apply to one of the Justices of the Peace, within and for the county, in which such prison is, who shall thereupon make out a notification in writing under

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under his hand and ſeal, thereby ſignifying to the creditor or creditors, ſuch priſoner's deſire of taking the privilege and benefit allowed in and by this act, and of the time and place appointed for the intended caption of the oath or affirmation allowed by this act, and which being ſerved on the creditor or creditors of the ſaid priſoner, if he, ſhe or they live within this Commonwealth, his or her executor or adminiſtrator; and if ſuch creditor or creditors live out of this Commonwealth, upon his or their agent or attorney, who brought forward the ſuit on which the judgment whereon the execution by which the priſoner ſtands committed, was rendered, by the ſheriff or his deputy of the county, in which the ſaid ſervice ſhall be made, either by reading the ſame to him or her, or by leaving an atteſted copy thereof, at the uſual place of abode of ſuch creditor or creditors, agent or attorney as aforeſaid, at leaſt thirty days before the time appointed for taking the ſaid oath or affirmation, that he, ſhe or they may be preſent, if they ſee cauſe. *Provided*, That if any creditor or creditors, live out of this Commonwealth, and have no agent or attorney as aforeſaid living in the ſame, an atteſted copy of ſuch notification ſhall be left with the clerk of the court, or the Juſtice by whom the ſaid execution was ſigned, at leaſt fifty days before ſuch intended caption.

And be it further enacted, That any two Juſtices of the Peace, within and for the county where ſuch caption is to be taken, each of whom ſhall be of the *quorum*, and diſintereſted and not related either to the creditor or debtor, are hereby authoriſed and empowered, at the time and place appointed for the taking ſuch caption, to examine the return of the ſaid notification; and if it ſhall appear to be duly made, to adminiſter the ſaid oath or affirmation, after fully examining and hearing the parties, if they the ſaid Juſtices ſhall think proper ſo to do, to ſuch debtor; which oath or affirmation, ſhall be in the form following, *to wit:*

I, , do ſolemnly ſwear before Almighty God [*or* affirm, *as the caſe may be*] that I have not any eſtate, real or perſonal, in poſſeſſion, reverſion or remainder, ſufficient to ſupport myſelf in priſon, or to pay priſon charges; and that I have not ſince the commencement of this ſuit againſt me, or at any other time, directly or indirectly, ſold, leaſed or otherwiſe conveyed or diſpoſed of, to, or entruſted any perſon or perſons whomſoever, with all or any part of the eſtate, real or perſonal, whereof I have been the lawful owner or poſſeſſor, with any intent or deſign to ſecure the ſame, or to receive, or to expect any profit or advantage therefor; or have cauſed or ſuffered to be done any thing elſe whatſoever, whereby any of my creditors may be defrauded. So help me God. [*or* this I do under the pains and penalties of perjury, *as the caſe may be.*]

Which

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Which oath or affirmation being adminiſtered by the ſaid Juſtices to, and taken by ſuch priſoner, and a certificate thereof made under the hands and ſeals of the Juſtices adminiſtering the ſame, to ſuch gaoler or priſon keeper, he ſhall thereupon ſet ſuch priſoner at liberty, if he or ſhe is committed for no other cauſe, and the body of ſuch priſoner ſhall not be held in priſon any longer upon ſuch execution; which certificate to be made by the Juſtices as aforeſaid, ſhall be in the form following, *to wit:*

——ff.

To , keeper of the gaol at .

We the ſubſcribers, two of the Juſtices of the Peace for the ſaid county of , and each of us of the *quorum*, hereby certify, that A. B. a poor priſoner, confined upon execution for debt, in the gaol at aforeſaid, hath cauſed D. E. the creditor, at whoſe ſuit he was ſo confined, to be notified according to law, of his the ſaid A. B's deſire of taking the benefit of an act, entitled, "An act for the Relief of Poor Priſoners, who are committed by Execution for Debt;" that in our opinion the ſaid A. B. hath not any eſtate either real or perſonal, ſufficient to ſupport himſelf in priſon, and that he hath not conveyed or concealed his eſtate with deſign to ſecure the ſame to his own uſe, or to defraud his creditors, and that we have after due caution to the ſaid A. B. adminiſtered to him the oath [*or* affirmation] preſcribed in the act aforeſaid.

Witneſs our hands and ſeals, this day of , Anno Domini,

And be it further enacted by the authority aforeſaid, That if any ſuch priſoner as aforeſaid ſhall be convicted of having ſold, leaſed or otherwiſe conveyed, concealed or diſpoſed of, or entruſted his or her eſtate, or any part thereof, directly or indirectly, contrary to his or her foregoing oath, or affirmation, he or ſhe ſhall not only be liable to the pains and penalties of wilful perjury, but ſhall receive no benefit from the ſaid oath or affirmation; and in caſe ſuch priſoner at the time of the intended caption ſhall not take the ſaid oath or affirmation, or be not admitted thereto by the ſaid Juſtices, he ſhall be remanded back to priſon, and ſhall not be entitled to the benefit of this act, unleſs a new notification be made out, and ſerved in manner as aforeſaid.

And be it further enacted, That all and every judgment, obtained againſt ſuch priſoners, ſhall, notwithſtanding ſuch diſcharge as aforeſaid, be and remain good and effectual in law, to all intents and purpoſes, againſt any eſtate whatſoever, which may then or at any time afterwards belong to him or her; and the creditor or creditors, agent or attorney, their executors or adminiſtrators, may take out a new execution againſt the lands, tenements, hereditaments, goods and chattels of ſuch priſoner (his wearing apparel and houſehold furniture, neceſſary for himſelf, his wife and children, and tools neceſſary for his trade or occupation, only excepted) for the

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the ſatisfaction of the debt, in ſuch ſort and manner as might have been done in caſe the ſaid priſoner had never been taken in execution.

And be it further enacted, That all and every perſon or perſons now in execution and confined in any of the gaols in this Commonwealth, who have been duly admitted to the oath preſcribed in an act made and paſſed in the year of our Lord one thouſand ſeven hundred and ſixty three, entitled, "An Act for the Relief of Poor Priſoners for Debt," and who are notwithſtanding ſtill held in cuſtody on the ſaid execution, by his, her or their creditor paying ſuch weekly allowance for their ſupport in priſon, as in the ſame act is provided, ſhall be and they hereby are diſcharged from ſuch executions whereon ſuch oath hath been adminiſtered; and the ſeveral gaolers in whoſe cuſtody ſuch perſons may be, ſhall, upon due notice given them of this act, diſcharge them, if they are confined for no other cauſe.

[This act paſſed *November* 19, 1787.]

FORMS.

I.

Application of a priſon keeper to a Juſtice of the Peace, in behalf of a priſoner who deſires to take the benefit of the Act for the relief of poor priſoners committed by execution for debt.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of C.

I, T. M. keeper of the priſon in P. in ſaid county, repreſent, That E. B. of, &c. now a priſoner in ſaid priſon, in which he ſtands committed by force of an execution iſſued, or a judgment recovered againſt him by C. D. of, &c. at the Court, which was begun and holden at , within and for the ſaid county of on the Tueſday of, &c. for the ſum of , debt or damage and coſts of Court taxed at , hath complained to me that he hath not eſtate ſufficient to ſupport himſelf in priſon.

I do therefore on his behalf and at his requeſt, apply to you the ſaid Juſtice, to make out a notification to the ſaid C. D. the creditor aforeſaid, agreeably to an Act of the General Court, paſſed Nov. 19, 1787, entitled, "An Act for the relief of poor priſoners, who are committed by execution for debt," thereby ſignifying to ſaid creditor his the ſaid E. B's deſire of taking the privilege and benefit allowed in and by ſaid act.

Dated, &c. T. M.

II. *Notification*

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II.

Notification thereon.

C——ff. To C. D. of in the county of C.

(L.S.) Whereas T. M. keeper of the prison in said county, hath represented to me the subscriber, one of the Justices of the Peace for the said county of C. That E. B. of , now a prisoner in said prison, in which he stands committed by force of an execution issued upon a judgment recovered by you at the Court , which was begun and holden at within and for the (said) county of , on the Tuesday, &c. against him the said E. B. for the sum of , debt or damage and costs of court taxed at , hath complained to him the said prison keeper, that he hath not estate sufficient to support himself in prison, and hath therefore in the behalf and at the request of the said E. B. applied to me to make out a notification to you, agreeably to an Act of the General Court, passed Nov. 19, 1787, entitled, "An Act for the relief of poor prisoners, who are committed by execution for debt," signifying to you, the said C. D's. desire of taking the privilege and benefit allowed in and by said act.

You are therefore hereby notified of the same, and that the day of next, at o'clock in the noon, is appointed for the intended caption of the oath (or affirmation) allowed by said act, at (the prison aforesaid) when and where you may be present if you see fit.

Given under my hand and seal at , in the county aforesaid, this day of A. D. 18

S. T.

Or the notification may be subjoined to the application as follows, viz.

C——ff. *To*

Greeting.

Whereas the foregoing application hath this day been made to me the subscriber, one of the Justices of the Peace within and for the said county of You are therefore hereby notified of the same; and that the day of next, at o'clock in the noon, is intended for the caption of the oath *(or affirmation)* allowed by the act therein referred to, at the prison aforesaid; when and where you will be present if you see fit.

Given under my hand and seal, the day of A. D.

ff.

I have this day served the above notification upon the above-named by

Fees, viz. Service——

Travel, miles

Deputy Sheriff.

C——ff.

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C——ſſ.

Having examined the above return, and duly cautioned the ſaid we have adminiſtered to him the oath or affirmation, allowed in the act above referred to; and made out a certificate thereof in the form therein preſcribed.

C. D } *Juſtices of the*
E. F. } *Peace and of*
G. H. } *the Quorum.*

POOR PRISONERS, CONFINED FOR TAXES.

An Act for the Relief of Poor Priſoners confined in Gaol for Taxes.

BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That when any perſon ſtanding committed to priſon, by virtue of any warrant for the collection of any tax, rate or aſſeſſment, ſhall complain that he or ſhe hath not eſtate ſufficient to ſupport him or herſelf in priſon, the gaoler or keeper of ſuch priſon ſhall, on ſuch complaint, apply to one of the Juſtices of the Peace within and for the county in which ſuch priſon is, who ſhall thereupon make out a notification in writing under his hand and ſeal, thereby ſignifying to the aſſeſſors of the town, diſtrict, plantation or pariſh where ſuch tax, rate or aſſeſſment was made, and alſo to the conſtable or collector who executed ſuch warrant, ſuch priſoner's deſire of taking the privilege and benefit, and of the time and place appointed for the intended caption of the oath or affirmation allowed by this act; which notification ſhall be ſerved on ſuch aſſeſſors and conſtable or collector, by leaving an atteſted copy thereof at the office of ſuch aſſeſſors, or at the uſual place of abode of any one of them; and alſo at the uſual abode of ſuch conſtable or collector, at leaſt thirty days before the time appointed for the taking ſaid oath or affirmation, that they may be preſent if they ſee cauſe.

And be it further enacted, That any two Juſtices of the Peace and of the quorum, of the ſame county, being diſintereſted, ſhall be and hereby are authoriſed and required, at the time and place appointed in ſuch notification, and upon the examination of the return thereof, and a full hearing of the parties, who ſhall and may appear thereupon, and no ſufficient cauſe to the contrary, in the opinion of either of the ſaid Juſtices, being ſhewn, and after due caution and examination of ſuch priſoner, to proceed to adminiſter an oath, or if he be of the ſect called quakers, an affirmation, in the form following, viz.

I , do ſolemnly ſwear before Almighty God (*or*, I do affirm, as

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as the case may be) that I had not at the time of my imprisonment by [*naming the said collector or constable*] nor have I at this time, any lands, goods, money or demands whereby to satisfy the sum at which I am assessed in the list or warrant of taxes committed to him to collect, and for which I am now holden in prison, or for the payment of any part of that sum, my necessary apparel and some other articles not liable to be distrained for taxes, and what has been expended for my necessary support while in prison, only excepted; nor have I at any time before or since my said imprisonment, disposed of or entrusted to any person or persons, any estate either real or personal, whereby to avoid such payment *So help me GOD*——(*or*, this I do under the pains and penalties of perjury, in case of affirming as aforesaid.)

Which oath or affirmation being administered by the said Justices to, and taken by such prisoner, and a certificate thereof made under the hands and seals of the Justices administering the same, to such gaoler or prison keeper, he shall thereupon set such prisoner at liberty, if he or she is in prison for no other cause; and the body of such prisoner shall not be held in prison any longer upon such warrant or commitment. Which certificate to be made by the Justices as aforesaid, shall be in the form following, viz.

D——— ff.

To , Keeper of the Gaol at C.

We the subscribers, two of the Justices of the Peace and of the quorum, for the county of D. hereby certify, That E. B a poor prisoner, confined by warrant for taxes in the gaol at C. aforesaid, hath caused the assessors of the town, district or parish (*as the case may be*) by virtue of whose warrant the said was to confined, and also [*naming the said constable or collector who executed such warrant*] to be notified according to law of the said E B's desire of taking the benefit of an act entitled "An Act for the Relief of Poor Prisoners confined in Gaol for Taxes," and no sufficient cause to the contrary being shewn: We have, after due caution and examination of the said E. B administered to him the oath or affirmation prescribed in the act aforesaid.

Witness our hands and seals, this day of , A. D 18

And the said Justices, or either of them (if only one be present) may adjourn to a future day, if he or they shall judge it to be necessary.

And be it further enacted, That any person who shall take the oath or make the affirmation aforesaid, having had at the time of his or her commitment as aforesaid, or afterwards, and before or at the time of taking such oath or affirmation, any lands, goods, money or demands, other than therein is excepted, and whereby he or she might have discharged the said rates or taxes or any part thereof,

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thereof, or having disposed of, or entrusted his or her estate contrary to the tenor of the said oath, and shall be thereof duly convicted before the Justices of the Supreme Judicial Court of this Commonwealth, he or she so therein offending, shall suffer the pains and penalties of wilful perjury, which are or shall be in other cases provided. And in case such prisoner at the time of the intended caption shall not take the said oath or affirmation, or not be admitted thereto by the said Justices, he or she shall be remanded back to prison, and shall not be entitled to the benefit of this act, unless upon a repetition of the proceedings aforesaid, the oath or affirmation aforesaid shall be administered.

And be it further enacted, That all and every warrant for taxes as aforesaid, against such prisoner, shall, notwithstanding such discharge as aforesaid, be and remain good and effectual in law to all intents and purposes, against any estate whatsoever, which may then or at any time afterwards belong to him or her (his or her wearing apparel and other articles not liable to be distrained for taxes, only excepted) and may be carried into execution for the satisfaction of such taxes out of such estate, in such sort and manner as might have been done in case the said prisoner had never been committed as aforesaid: Or the constable or collector who shall make such commitment, or the inhabitants of the town or place where such tax was assessed, shall and may have remedy therefor by a suit or action, as for the proper debt of such constable, collector or inhabitant, any judgment to be recovered thereupon, to be satisfied only from the goods or estate of such poor person who shall and may be relieved by this act

And be it further enacted, That when any person standing committed as aforesaid, for any tax due to this Commonwealth, or to the county, shall be liberated from such commitment, by virtue of this act, in every such case, the town, plantation or district, from whose assessors the warrant, by virtue of which such prisoner was committed, was issued, shall be holden to pay the whole tax required of such town, plantation or district, by law; such liberation notwithstanding.

Provided, and be it further enacted, That when any person who shall be imprisoned for the non-payment of the proportion of any tax, which shall be assessed after the first day of *April* next, shall be discharged from confinement by virtue of this act, the collector or constable making such imprisonment, shall not be discharged of the proportion which was due from such person, but shall be holden to pay the same; unless such imprisonment shall be made within one year, next after the commitment of such tax to such collector or constable, or unless the inhabitants of such town or place, in legal town meeting, shall see fit to abate the same, to such collector or constable.

[This act passed *March* 10, 1791.]

FORM

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FORM

Of a Prison Keeper's Application to a Justice of the Peace, in behalf of a Poor Prisoner confined in Gaol for Taxes.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

I, T. M Keeper of the Prison in in said county, represent, That E. B. of , who stands committed in said prison by virtue of a warrant from C. D E. F. and G. H assessors of the town (district, plantation or parish) of , directed to J. H. (constable or) collector of said town (district, plantation or parish) for the collection of a certain tax or assessment therein mentioned, hath complained that he hath not estate sufficient to support himself in prison.

I do therefore, in compliance with a law of the Commonwealth, entitled, "An Act for the Relief of Poor Prisoners confined in Gaol for Taxes," passed March 10, 1791, hereby apply to you the said Justice to make out a notification in writing, under your hand and seal, thereby signifying to the assessors of said town (district, plantation or parish *as the case may be*) of , and also to the said J H the (constable or) collector as aforesaid, the said E. B's desire of taking the privilege and benefit, allowed by said act. T. M.

Dated, &c.

Notification thereon.

D——ss.

To , assessors of the town (district, plantation or parish) of , and to J. H. (constable or) collector, of said town, (district, plantation or parish) for the year .

(L. S.) Whereas T. M Keeper of the Prison in in said county, hath represented to me the subscriber, one of the Justices of the Peace for the said county of D. That E. B. who stands committed in the said prison by virtue of a warrant from C. D. E. F. and G. H. assessors of the town (district, plantation or parish) of , directed to J. H. (constable or) collector of said town (district, plantation or parish) for the collection of a certain tax or assessment therein mentioned, hath complained that he hath not estate sufficient to support himself in prison, and hath therefore in behalf and at the request of the said E. B. applied to me to make out a notification to you agreeably to an Act passed *March* 10, 1791. signifying to you, the said E. B's desire of taking the privilege and benefit of said act.

I do therefore hereby notify you of said application, and that the day of next, at o'clock in the noon, is

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is appointed for the intended caption of the oath (*or* affirmation) allowed by ſaid act, at , (he priſon aforeſaid) when and where you may be preſent, if you ſee fit.

Given under my hand and ſeal, this day of , A. D. 18 S. I.

PROCESS.

THE uſual way of commencing a Criminal Proſecution before a Juſtice of the Peace, is by complaint

When complaint is made againſt a perſon for committing any offence againſt the laws of the Commonwealth, puniſhable by a Juſtice of the Peace, it is proper for the Juſtice, in the firſt place, to examine the complainant, that he may be ſatisfied there is juſt ground for his complaint; for, I take it, a Juſtice is not obliged to receive every complaint that is made to him, at all events, whether the ſame be well founded or not, any more than a Grand Jury is, to preſent a perſon without ſufficient cauſe according to their oath; as it ſometimes happens and is perhaps too often the caſe, as to ſlight breaches of the peace, that frivolous complaints are made rather to gratify a litigious or revengeful diſpoſition, or to follow the impulſe of a ſudden paſſion, than from a diſpoſition to promote the publick peace, or ſupport the laws of the government. But he is to conſider the juſtneſs of the complaint, and uſe his beſt diſcretion as to the granting any proceſs thereupon.

Having, after due deliberation, determined to receive the complaint, which ſhould be in writing, ſigned and ſworn to by the perſon who makes it, the Juſtice is to iſſue a warrant directed to a proper officer, for apprehending the offender and bringing him either before himſelf or ſome other Juſtice within the county, to be examined thereupon and dealt with as the law directs. When the (ſuppoſed) offender is thus brought before the Juſtice, the Juſtice will aſk him whether he be or be not guilty of the offence with which he is charged. If he acknowledge himſelf to be guilty, the Juſtice will paſs ſentence againſt him as the law requires. If he ſay he is not guilty, the Juſtice will examine the witneſſes ſummoned to give evidence in the cauſe, after adminiſtering an oath to them as follows, viz.

"You (ſeverally, *if there be more than one*) ſwear, that the evidence you ſhall give in the cauſe now in hearing, ſhall be the truth, the whole truth, and nothing but the truth.

"*So help you GOD.*"

After a full hearing, the Juſtice will pronounce his opinion according as the evidence ſhall be.

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If it appear to the Juſtice that the evidence is not ſufficient to convict him, he will acquit and diſcharge him. If, on the other hand, it appear that he be guilty, the Juſtice will ſentence him accordingly. If he ſhould appeal from the ſentence, he muſt enter into a recognizance to proſecute his appeal according to law; or, if not appealing he ſhould refuſe to comply with the ſentence, the Juſtice will commit him.

See the articles COMPLAINT.——WARRANT.——SENTENCE——MITTIMUS.

NOTE.—The proceſs againſt a perſon who may have committed an offence above the juriſdiction of a Juſtice may be commenced in the ſame way; but in ſuch caſes the Juſtice, inſtead of trying the (ſuppoſed) offender, will bind him by recognizance, with ſureties as the law directs, to appear and anſwer the ſame at the next Court of General Seſſions of the Peace, or Supreme Judicial Court next to be holden in the county where the offence is ſaid to be committed, as the caſe may require, provided the offence be bailable by law; if it be not bailable, the offender is to be committed, and held to anſwer the ſame at the Supreme Judicial Court.

The commencement of a civil proceſs is generally by writ of attachment or original ſummons, and is ſo well known as not to need any obſervations thereupon.

PROFANE CURSING AND SWEARING.

An Act to prevent Profane Curſing and Swearing.

WHEREAS the horrible practice of profane curſing and ſwearing is inconſiſtent with the dignity and rational cultivation of the human mind, with a due reverence of the Supreme Being and his providence, and hath a natural tendency to weaken the ſolemnity and obligation of oaths lawfully taken in the adminiſtration of Juſtice; to promote falſehood, perjuries, blaſphemies, and diſſoluteneſs of manners, and to looſen the bonds of civil ſociety:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That if any perſon, who has arrived at diſcretion, ſhall profanely curſe or ſwear, and ſhall be thereof convicted, ſuch perſon ſo offending ſhall forfeit and pay a ſum, not exceeding *two dollars*, nor leſs than *one dollar*, according to the aggravation of the offence and the quality and circumſtances of the offender, in the judgment of the court or Juſtice of the Peace before whom the conviction may

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may be; and in case the same person shall, after one conviction aforesaid, offend a second time, such offender shall forfeit and pay upon such second conviction, double the sum forfeited on the first conviction; and in case the same person shall after two convictions as aforesaid, again offend, such offender shall forfeit and pay upon each and every subsequent conviction, treble the sum of forfeited on the first conviction; and if on any trial and conviction, proof shall be made that more than one profane oath or curse were sworn or uttered by the same person at the same time, and in the presence or hearing of the same witness or witnesses, the person so offending, for every profane oath or curse after the first, shall forfeit and pay a sum not exceeding *fifty cents*, nor less than *twenty five cents*, in addition to the sum forfeited as first above specified: One moiety of the several forfeitures aforesaid to be to the use of the poor of the town in which the offence shall be committed, and the other moiety thereof to the use of the person or persons who shall make complaint thereof or prosecute for the same. And in case any person convicted of profane cursing or swearing, shall not immediately pay the sum or sums so forfeited, such person shall be committed to the common gaol or house of correction, there to remain not less than one day nor more than five days. *Provided nevertheless*, That when any person shall have been convicted of profane cursing or swearing, before any Justice of the Peace, and having appeared before such Justice and pleaded the general issue, or demurred to the charges in the complaint against him, it shall be lawful for such defendant to appeal from the sentence of such Justice to the Justices of the next Court of General Sessions of the Peace, to be holden in and for the county wherein the offence was committed, who shall hear and finally determine the same; the appellant claiming such appeal at the time of declaring such sentence by said Justice, and then and there recognizing with sufficient surety or sureties, in a reasonable sum not exceeding *twenty dollars*, to prosecute his said appeal with effect, and to perform the order of said court therein.

SECT. 2. *And be it further enacted*, That if any person shall profanely curse or swear in the hearing of any sheriff, deputy sheriff, coroner, constable, grand juror or tythingman, it shall be the duty of such officers respectively, forthwith to give information thereof to some Justice of the Peace of the county wherein the offence may be committed, in order that the offender may be taken, convicted and punished for the same; which conviction shall be drawn up in the form following:

D——ss.

Be it remembered, that on the day of , in the year of our Lord , A B. was convicted before me, one of the Justices of the Peace for the county of D. of swearing one (*or more*) profane

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profane oath, (*or* oaths) or of uttering one (*or* more) profane curſe (*or* curſes *as the caſe may be.*)

Given under my hand, the day and year aforeſaid.

Provided always and it is hereby further enacted, That no perſon ſhall be convicted or troubled for the offence of profane curſing and ſwearing, unleſs the proſecution for ſuch offence ſhall be commenced within twenty days next after the offence ſhall be committed.

SECT. 3. *And be it further enacted*, That the clerks of the ſeveral towns, diſtricts and plantations in this Commonwealth, ſhall cauſe this act to be publickly read at the opening of their reſpective annual meetings in the month of *March* or *April*; and if the clerk of any town, diſtrict or plantation ſhall neglect ſo to do, he ſhall forfeit and pay the ſum of *ten dollars* for each neglect, to be recovered by an action of debt in any court proper to try the ſame; one moiety thereof to the uſe of the perſon or perſons ſuing therefor, and the other moiety thereof to the uſe of this Commonwealth.

SECT. 4. *And be it further enacted*, That the ſecretary ſhall cauſe to be tranſmitted a printed copy of this act to each of the publick teachers of religion within this Commonwealth, to whom it is hereby recomended to read or cauſe the ſame to be publickly read to their ſeveral congregations annually on the day of the publick faſt.

SECT. 5. *And be it further enacted*, That all laws heretofore made for preventing profane curſing and ſwearing be and hereby are repealed.

[This act paſſed *June* 29, 1798.]

FORM

Of a Warrant to commit a Perſon, who being convicted, upon the hearing of a Juſtice, of Profane Curſing or Swearing, ſhall refuſe to pay the Sum forfeited for ſaid Offence.

D——ff

To the Sheriff of the ſaid county of D. or either of his Deputies, or any of the Conſtables of the town of , in ſaid county, Greeting.

(L.S) Whereas A. B. of , (*or* now reſident in) in ſaid county hath this day been convicted before me the ſubſcriber, one of the Juſtices of the Peace for ſaid county, of uttering one profane oath (*or* curſe) [*or*, profane oaths or curſes] in the hearing of me the ſaid Juſtice; for which offence he hath been ſentenced and adjudged by me, to pay a fine of *cents*, [*if the fine be for more than one oath or curſe uttered at the ſame time, ſay*, being for the oath (*or* curſe) firſt uttered, and for the other, *or* each of the others, *as the caſe may be*] together with

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for the costs of prosecution. And whereas the said A B. hath, before me, refused to pay said fines and costs:

These are therefore in the name of the Commonwealth of Massachusetts, to command and require you to take the body of the said A B. and him commit unto the Commonwealth's gaol (*or* to the house of correction) in in said county of , and him there detain for the term of days, [*not less than one day nor more than five days*] and until he pay the said costs, together with your fees; or be otherwise discharged by due order of law.

Given under my hand and seal at , the day of , A. D. 18 ,

S. T.

RECOGNIZANCES.—See page 75, &c.

IT may not be amiss to insert here the manner of taking a recognizance. The Justice addressing himself to the principal and sureties, says:

You A B. C. D. and E F. acknowledge yourselves to be severally indebted to the Commonwealth of Massachusetts, (*or* to G. H. *as the case may be*) in the sums following, viz. You A B. as principal, in the sum of *dollars*, and you C. D. and E. F. as sureties, in the sum of *dollars* each, to be levied on your goods or chattels, lands and tenements, and in want thereof, on your bodies, if default be made in the performance of the condition hereafter mentioned, namely;

That, &c. [*here repeat the condition of the recognizance, for the form of which,* see page 75, &c. And that the Justice be satisfied that the sureties understand the force of the recognizance, he may add] You are content, *or*, this you acknowledge.

NOTE. If any person committed to gaol for not performing the orders of a Justice to enter into a recognizance, should afterwards recognize, he may be discharged, agreeable to a form inserted under the article ORDER of DISCHARGE, page 214.

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RECOGNIZANCE OF DEBTS.

An Act for the repealing of one Act of this Commonwealth, made and paſſed the third day of May laſt, entitled "An Act providing a ſpeedy Method of recovering Debts, and for preventing unneceſſary Coſts attending the ſame," and for making other Proviſion which may better anſwer the ends deſigned by the ſaid Act.

WHEREAS among other defects in the ſaid act, there is no certain future day ſet therein after the day of the acknowlegdment of the debt (propoſed to be taken) for the payment of the ſame, or for iſſuing the writ for the levying thereof:

Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That the ſaid act, entitled as aboveſaid, be and hereby is repealed; and that every part thereof be hereafter held and taken to be null and void. And that from and after the firſt day of *December*, one thouſand ſeven hundred and eighty two, every Juſtice of the Peace for any county in this Commonwealth, ſhall ſeverally have power and authority within his county, to take recognizances for the payment of debts of any perſon or perſons (by law capable of binding him or herſelf) who ſhall come before him for that purpoſe, according to ſuch form, or according to the effect and meaning of ſuch form as hereafter enſueth. That is to ſay,

Know all men, that I, C. D. of in the county of , do owe unto E F. the ſum of of the lawful money of Maſſachuſetts, to be paid to the ſaid E. F. on the day of , 18 ; and if I ſhall fail of the payment of the debt aforeſaid, by the time aforeſaid, I will and grant that the ſaid debt ſhall be levied of my goods and chattels, lands and tenements, and in want thereof, of my body. Dated at , this day of , in the year of our Lord 18 . Witneſs my hand and ſeal, C. D.

——ſſ. Acknowledged the day and year laſt aboveſaid.

Before S. T. Juſtice of the Peace.

And be it further enacted by the authority aforeſaid, That every ſuch recognizance ſhall be made and written on a piece of paper or parchment; and the Juſtice of the Peace taking the ſame, ſhall immediately cauſe it to be fairly recorded at large, in a book to be therefor by him provided and kept; which original recognizance, after the ſame ſhall be recorded as is above directed, at the requeſt of the conuſee or conuſees, or of the perſon or perſons to whom the remedy or executive proceſs on ſuch recognizance ſhall by law accrue, (in caſe of the deceaſe of any or all of them) ſhall be delivered to him or them ſo requeſting it And every conuſee or conuſees, his or their legal repreſentative or repreſentatives, for default of the payment of the debts contained in ſuch recogni-

zances,

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zances, or any part of such debts, by the time therein set and expressed for the payment thereof, shall have in every point, respect and degree, against the conusor or conusors, the survivor or survivors of them, his or their heirs, executors and administrators, and the heirs, executors or administrators of the last survivor of such conusors, (where there shall be such) the like process or processes, action and remedy, execution or executions, *alias* and *pluries*, as hath been hitherto had, used and accustomed, and may at this time be lawfully had, used, done or made against them respectively, of and upon a judgment of any court of record in this Commonwealth, on an action of debt in full force, unreversed and not satisfied. And for the speedy obtaining of such debts, the Justice of the Peace who took such recognizance, at any time within three years from and after the day set and expressed therein for the payment of the debt, or any part thereof, expressed in such recognizance, at the request of the conusee or conusees named therein, or in case of their death, at the request of the person or persons to whom the remedy or *chose* in action thereon, shall be cast by law; and upon his or their producing and delivering to him such original recognizance uncancelled, and without any receipt of payment or satisfaction of the sum alleged to be then payable and due, underwritten or endorsed, and lodging the same with the said Justice, he shall award and make out on such recognizance a writ or process of execution for the levying of the whole sum, which by such recognizance and the receipts (if any there be) entered thereon, appear to be then due and payable, of the same nature and effect against the body or bodies, and estate, real and personal of the conusor or conusors, as by the laws of this Commonwealth a judgment creditor is entitled to have for the levying and satisfying any sum or sums of money, recovered and due to him by the judgment of any court of record in this Commonwealth on an action of debt in full force. And such process for the execution of such recognizance, may and shall be directed to, executed and returned by all and any such officer and officers as the writ or process for the execution of the judgment of any court of record, by the laws of this Commonwealth may and ought to be directed to and returned by. And all and every such officer and officers for any town or county in this Commonwealth, shall have the like powers and authority, and shall be under the like obligations in all respects and regards whatsoever, to execute and return such writ or process made upon such recognizance, by such Justice of the Peace empowered by this act to award the same, as he or they by law have and are under, to execute and return a writ of execution on any judgment of a court of record, in an action of debt; and shall be subject and liable to all the like action and actions for any fraud or falsehood, neglect, misfeasance and malfeasance, in or concerning the executing or returning of any such process for the executing of such recognizance aforesaid, as he or they by

law

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law are liable and subject to for any defaults, neglects, frauds, falsehood, delinquencies, or errors whatsoever, touching, concerning, or in any wise relating to the execution or return of any writ or process on any judgment of a court of record in an action of debt. And every writ or process for the executing such recognizance may run into any county or place (and is hereby made awardable into any county or place in this Commonwealth) and may and shall be there executed by the officer or officers of such county, town or place, by law having the execution and return of writs, to whom it shall be directed. And the writ or process for the execution of such recognizance as is aforesaid, shall be in the form, or to the effect and meaning of the form which here followeth, viz.

The Commonwealth of Massachusetts.

(L.S.) To the Sheriff of the county of , his under Sheriff or Deputy, or either of the Constables of the town of in the said county of ,

Greeting.

Because C. D. of , in the county of , on the day of , in the year of our Lord 18 , before S. T. Esq. one of the Justices of the Peace for the said county of , acknowledged that he was indebted to E. F of , in the county of , in the sum of , which he ought to have paid on the day of , and remains unpaid, as it is said:

We command you therefore, that of the goods, chattels, or real estate of the said C D. within your precinct, you cause to be paid and satisfied unto the said E. F. at the value thereof in money, the sum last aforesaid, with more for this writ, and thereof also to satisfy yourself your own lawful fees: And for want of goods, chattels or real estate of the said C. D. to be found within your precinct, to the acceptance of the said E. F. to satisfy the sums aforesaid, and your said fees; we command you to take the body of the said C. D. and him commit unto our gaol in our county of aforesaid, there to be detained in the said gaol, until he pay the full sums aforesaid, with your said fees, or that the said C. D. be discharged by the said E. F. the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto the abovenamed S. T. within sixty days next coming.

Witness the said S. T. at , the day of , in the year of our Lord 18

S. T.

And it is further enacted, That in case of the time of awarding such writ of execution, there shall, by reason of death, happen to be any change of the person or persons who by law shall have the right

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right to sue out the same, or of the persons chargeable with the payment of the contents of the recognizance, from the time when it was taken; the form of the said writ shall be so varied from the foregoing form, as to make it take effect, according to the operation of the law upon the case at the time of the writ's issuing.

Provided always, That in what manner soever the *chose* in action may be changed by the death of one or more of the conusees, the property and interest in the debt shall always in that case vest in such person or persons as a debt which is due to joint merchants does by the law merchant; and that the right of survivorship shall not take place with regard to the property in the debt.

And be it further enacted by the authority aforesaid, That no writ of this sort shall be awarded in such form as to make the body or bodies of the heir or heirs at law of the conusor or conusors or the proper goods or estate of the executors or administrators liable to be taken in satisfaction of the said writ: But in case of the death of any conusor or conusors of this sort, such writ shall run against such person, persons and estate, as a writ of execution on a judgment of a court of record in an action of debt, would by law run, in case the judgment debtor or debtors, or any of them were dead. And that every person and persons that shall be grieved and injured by the wrongful suing out and executing of any writ or process of execution of this sort, shall have all the like remedy and remedies in the law, as in case a writ of execution on any judgment of a court of record in debt had been unjustly and wrongfully sued out and executed upon him or them.

And be it further enacted, That in case at any time it should happen, that full three years shall have elapsed from and after the time set and limited in and by such recognizance for the payment of the contents thereof, without any payment made and underwritten or endorsed, and without any writ of execution having been sued out thereon; or in case any payment or payments of part shall have been made and underwritten, or endorsed at any time or times after the time set and expressed for the payment of the contents, and three years shall have elapsed from and after the last of such payments, and no writ of execution shall have been sued out within three years from the last payment; no writ of execution shall be awardable in either of such cases until a writ of *scire facias* shall have been sued out from the court in which by law an original action for a like sum might have been brought and served, and return thereof made as by law is directed; but after that shall have been done, and upon the defendant's non-appearance or not shewing sufficient cause, and the plaintiff's producing and filing the original recognizance in the court from which the *scire facias* issued, the court shall proceed to award execution for what shall appear to be due on such recognizance with the lawful costs.

And be it further enacted by the authority aforesaid, That in case of the death of the Justice of the Peace, who shall have taken any such

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ſuch recognizance as the aforeſaid, or of his removal out of the Commonwealth or otherwiſe, where no writ of execution thereon has been ſued out and returned ſatisfied; in every ſuch caſe, ſuch creditor or creditors, who ſhall have any ſuch recognizance taken before ſuch deceaſed or removed Juſtice, and ſhall file the ſame in the Court of Common Pleas for the county where either the creditor or the debtor dwells, ſhall be entitled to ſue out a writ of *ſcire facias* thereon: And the debtor being ſerved with ſuch writ in the manner above preſcribed, and not appearing or ſhewing ſufficient cauſe why execution ſhould not be had, the court ſhall proceed to award execution for what ſhall appear to be due, with lawful coſts.

And be it further enacted, That any perſon or perſons in whoſe favour any acknowledgment has been taken or may be taken on or before the firſt day of *December* next, agreeable to the act mentioned as above to be repealed, ſhall be entitled to the benefit of the ſame proceeding thereon as he might have had if the ſame act had continued in force and unrepealed; any thing in this act to the contrary notwithſtanding.

And be it further enacted, That the fees to the Juſtice of the Peace who ſhall take recognizances purſuant to this act, ſhall be as follows, viz.

For taking and atteſting any ſuch recognizance, be the number of the conuſors or conuſees more or leſs, ſhall be *one ſhilling* and *ſix pence*, and no more.

For recording ſuch recognizance, *one ſhilling*, and no more.

For the writ of execution on ſuch recognizance, *one ſhilling* and *ſix pence*, and no more.

[This act paſſed *October* 19, 1782.]

RECORDS.

An Act for preſerving and authenticating the Records of Juſtices in certain Caſes.

WHEREAS law-ſuits may ariſe, and great injuſtice accrue, in conſequence of judgments obtained under the ſeveral Acts of this Commonwealth for rendering proceſſes in law leſs expenſive, in caſes where the Juſtices, before whom ſuch judgments may have been obtained, have neglected to complete their records, and have deceaſed or moved out of this Commonwealth, unleſs ſome adequate remedy be provided;

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That in all caſes where real eſtate ſhall have been ſet off, in ſatisfaction of any execution which ſhall have been iſſued by any Juſtice of the Peace, under either of the Acts entitled, "An Act for rendering proceſſes

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proceſſes in law leſs expenſive," if ſuch Juſtice ſhall have deceaſed or removed out of the Commonwealth without having completed his record, and the title to ſuch real eſtate, founded on the extent of ſuch execution, ſhall be drawn in queſtion in any action, the creditor or creditors, or the perſon or perſons claiming ſuch title under him or them, ſhall be admitted to ſhew in evidence of his title a copy of the original writ, with the officer's return thereon, and a copy of the execution, with the officer's return thereon, regiſtered according to law; which ſaid copies, duly authenticated by the proper certifying officers thereof, ſhall be ſufficient evidence of the judgment on which ſuch execution iſſued as aforeſaid.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the Juſtices of the Peace within this Commonwealth, who have rendered judgments under either of the aforeſaid Acts, ſhall within twelve months after the paſſing of this Act, return their reſpective records thereof, together with the original proceſſes, and all papers relating thereto, into the offices of the Clerks of the Courts of Common Pleas, in the ſeveral counties wherein ſuch judgments were reſpectively rendered; and the ſaid Clerks ſhall be the proper perſons to keep and certify the ſame; and to ſign writs of execution on ſuch judgments returned as aforeſaid, in any caſe where the ſame may be iſſuable by law. And if any Juſtice of the Peace ſhall refuſe or neglect to return his records, proceſſes and papers as aforeſaid, he ſhall forfeit and pay the ſum of *twenty dollars*, to be recovered to the uſe of the county, by the Clerk of the Court of Common Pleas in ſaid county; whoſe duty it ſhall be to ſue for the ſame in any Court proper for the trial therof.

[This Act paſſed *March* 11, 1802.]

REFERENCES.

An Act for rendering the Deciſion of Civil Cauſes, as ſpeedy and as little expenſive as poſſible

WHEREAS it is the duty of the Legiſlature to provide means whereby the deciſion of civil cauſes ſhould be as ſpeedy, and attended with as little expenſe to the citizens of this Commonwealth, as the nature of things will admit,

Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That when any perſons, who may have a diſpute of what nature ſoever, ſhall agree to have the diſpute determined by referees, mutually choſen by the parties for the purpoſe, it ſhall and may be lawful for the perſon or perſons making the demand in the action, to make out a particular ſtatement thereof, under his or their hands in writing, and

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and to lodge the same with some one Justice of the P[illegible] county in which the person or persons making the de[illegible] dwell; and the said Justice of the Peace, upon applica[illegible] parties for the purpose, shall make out an agreement to be a[illegible] nexed to the aforesaid demand, and to be by them or their la[illegible]ful agents or attornies subscribed and acknowledged, in substance as follows.

Town of , in the county of , 18

Know all men that A. B. of , in the county of , [*addition*] and C. D. of in the county of , [*addition*] have agreed to submit the demand made by the said A. B. against the said C. D. which is hereunto annexed, [and all other demands, *as the case may be*] to the determination of E. F G H. and I K. the report of whom, or the major part of whom, being made, as soon as may be, to any Court of Common Pleas, to be holden in and for the said county of , judgment thereon to be final: And if either of the parties shall neglect to appear before the referees, after proper notice being given them of the time and place appointed by the referees for hearing the parties in this action, the referees shall have power to proceed *ex parte*.

A. B.
C. D.

D——ff. 18

Then the above named A. B. and C. D. personally appeared, and acknowledged the above instrument by them subscribed to be their free act.

Before me, S. T. Justice of the Peace.

And be it further enacted, That there shall be paid by the person or persons making the demand in the action, *two shillings* unto the Justice of the Peace, that may make out the agreement, and take the acknowledgment thereof, as aforesaid, which sum shall be added to the costs that may arise in the action, for the determination of which the agreement and acknowledgment were made as aforesaid

And be it further enacted by the authority aforesaid, That the determination of the referees who may be appointed, agreeably to this act, shall be made to the next Court of Common Pleas, to be holden in, and for the county in which the Justice of the Peace may have lived at the time he issued the agreement as aforesaid; and the Court of Common Pleas to whom the report of the referees may be made as aforesaid, shall have cognizance thereof, in the same way and manner, and the same doings shall be had thereon, as though the same had been made by referees appointed by a rule of the same court. And the Justices of said court to which a report shall be made by referees appointed agreeably to this act, shall be entitled to *three shillings* for each report so made; and the clerk of said court for recording the same shall receive *eight pence*.

And

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And be it further enacted by the authority aforesaid, That where the parties shall agree that the determination of the referees may be made known, prior to its being made to the Court of Common Pleas as aforesaid, it shall and may be lawful for the referees to make known the determination to the parties, without its affecting in any degree the validity thereof, and if the determination shall be so made known to the parties, it shall and may be lawful for the party who may be found indebted agreeably to the determination aforesaid, to discharge him or themselves therefrom, and thereby prevent any further process thereon, by paying the same unto the person or persons to whom it may be so awarded, and having his or their receipt therefor on the back of the determination aforesaid; in which case the determination and papers accompanying the same, shall be returned to the Court of Common Pleas, to be recorded by the clerk of said court in the same manner as though the money had not been paid as above mentioned.

And be it further enacted, That the referees that may be appointed in pursuance of this act, shall be vested with all the authority and power that referees have been, or may hereafter be vested with, who have been, or shall be appointed by a rule of court. And witnesses shall be summoned to appear before them and sworn, in the same manner as is or may be prescribed by law for summoning witnesses before referees appointed by a rule of court as aforesaid.

[This act passed *July* 7, 1786.]

REGISTER OF DEEDS.—See page 5, &c.

REPLEVYING OF CATTLE.

An Act prescribing the Form, and directing the Mode of Process, to be adopted in replevying of Cattle or Beasts distrained, and also of Goods and Chattels.

BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That when any person shall have his cattle restrained or impounded in order to obtain satisfaction for damages they may have committed, or to obtain a forfeiture, supposed to have been incurred for their going at large, out of the inclosure of the owner, in violation of law, in order to have the legality of such distraint or impounding determined, he may have and prosecute a writ of replevin for the liberation of the cattle thus impounded, in the form following:

Commonwealth

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Commonwealth of Maſſachuſetts.

D——ff.

To the Sheriff of our county of D. or his Deputy, or to either of the Conſtables of the town of in ſaid county,

Greeting.

(L.S.) We command you, that you replevy [*here inſert a deſcription of the beaſt or beaſts impounded*] belonging to P. D. of , (*addition*) now diſtrained or impounded by S. P. of , (*addition*) in the common pound in ſaid (*or* in ſuch other place as they may be reſtrained) and them deliver unto the ſaid P. D. provided the ſame are not taken and detained upon mean proceſs, warrant of diſtreſs, or upon execution, as the property of the ſaid P. D. and ſummon the ſaid S. P. to appear before I. S. one of our Juſtices of the Peace for our ſaid county of D. at his dwelling houſe in , on the day of , at of the clock in the noon, to anſwer unto the ſaid P. D. in a plea of replevin, for that the ſaid S. P. on the day of , at a place called A. in aforeſaid, unlawfully took and impounded the ſaid , and the ſame unjuſtly detained to this day, to the damage of the ſaid P. D. as he ſaith, the ſum of *ſhillings*, as ſhall then and there appear, with other due damages: *Provided* he the ſaid P D. ſhall give bond with ſufficient ſurety or ſureties to the ſaid S. P. in the ſum of *pounds*, being double the value of the ſaid beaſts, to proſecute his ſaid replevin to final judgment, and to pay ſuch damages and coſts as the ſaid S. P. ſhall recover againſt him, and alſo to return the ſaid , in caſe ſuch ſhall be the final judgment. And of this writ with your doings hereon, and the bond you ſhall take, you are to make return to our ſaid Juſtice, on or before the ſaid day of , at o'clock.

Witneſs I. S. our ſaid Juſtice at in ſaid county, this day of , Anno Domini, 18

I. S.

And when the Sheriff or his Deputy are parties, the writ may be directed to a Coroner, or where the ſum does not exceed *twenty pounds*, it may be directed to a Conſtable, and by him executed.

And be it further enacted, That when it ſhall appear from the plea of the defendant in replevin, that the cattle were taken and impounded, damage feaſant, or for the recovery of a penalty incurred for their being found going at large, out of the encloſure of the owner, in violation of law; and upon the iſſue, it ſhall be determined that the cauſe of taking and detaining was lawful and juſtifiable, judgment ſhall, inſtead of a return of the cattle, be rendered for the defendant in replevin, to recover ſuch reaſonable damages, as upon a conſideration of the circumſtances of the caſe, the

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the Juſtice (*or* a Jury, in caſe it comes before one) ſhall aſſeſs, together with coſts of taking and impounding, and of coſts of defence: but if upon the trial of the iſſue, it ſhall appear that the cattle were taken or detained without ſufficient and juſtifiable cauſe, the plaintiff in replevin ſhall recover ſuch reaſonable damages for the taking and detaining, as the Juſtice (*or* a Jury, in caſe it comes before one) ſhall aſſeſs, together with his coſts: But when, from the matter of the plea of the defendant in repievin, damage with propriety cannot be aſſeſſed, or that a reſtoration of the property replevied, is the beſt recompenſe the parties can have, and upon the iſſue it ſhall be found, that the cattle were taken and detained lawfully, and for juſtifiable cauſe, the judgment ſhall be rendered, that the cattle be returned and reſtored to the defendant irrepleviable and for coſts, and he be entitled to writ of return and reſtitution accordingly.

And be it further enacted, That when it ſhall appear from the plea or avowry of the defendant in replevin, that the ſum demanded in damage for the taking and detaining exceeds *eighty ſhillings*, or that the property of the beaſt taken, is the queſtion between the parties (in caſe the value exceeds *eighty ſhillings*) or that the right to ſoil and freehold is coming in queſtion, in every ſuch caſe the Juſtice ſhall not proceed to try the iſſue, but ſhall order the defendant in replevin to recognize in a reaſonable ſum, with ſufficient ſurety or ſureties, to the adverſe party, to enter the ſaid action at the next court of Common Pleas, or the Supreme Judicial Court, to be held in the ſame county, as the plaintiff in replevin ſhall then and there elect and chooſe, and to proſecute the ſame to effect; and if ſuch defendant in replevin ſhall neglect or refuſe thus to recognize, the Juſtice ſhall render judgment againſt him in the ſame manner as if he refuſed to make anſwer to the ſame ſuit. And in caſe ſuch defendant ſhall, after recognizing, fail of entering or proſecuting the ſame action, the plaintiff may enter and proſecute the action, or have his remedy on the recognizance, at his election.

And be it further enacted, That when any goods or chattels ſhall be taken, diſtrained or attached, which ſhall be claimed by a third perſon, and the perſon thus claiming the ſame ſhall think proper to replevy them, in caſe ſuch goods and chattels are of the value of more than *four pounds*, he may take out and proſecute his writ of replevin from the clerk's office of the Court of Common Pleas, in the county where the goods and chattels are thus taken, diſtrained or attached, in the form following, viz.

Commonwealth

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REPLEVYING OF CATTLE.

Commonwealth of Maſſachuſetts.

D ——ff.

To the Sheriff of our county of D or his Deputy, Greeting.

(*or* if the Sheriff or his Deputy are defendants, then it may be directed to a Coroner.)

(L. S.) We command you that you replevy the goods and chattels following, viz [*here enumerate and particularly deſcribe them*] belonging to P, D of , (*addition*) now taken, detained or attached (*as the caſe may be*) by S. P of , (*addition*) at in aforeſaid, and them deliver unto the ſaid P. D. *Provided* the ſame are not taken and detained upon mean proceſs, warrant of diſtreſs, or upon execution as the property of the ſaid P. D. and ſummon the ſaid S. P. that he appear before our Juſtices of our Court of Common Pleas next to be holden at , within and for our county of D, on the Tueſday of , to anſwer unto the ſaid P. D. in a plea of replevin, for that the ſaid S P. on the day of , at ſaid , unlawfully, and without any juſtifiable cauſe, took the goods and chattels of the ſaid P. D. as aforeſaid, and them unlawfully detained to this day to the damage of the ſaid P. D. as he ſays, the ſum of *pounds: Provided* he the ſaid P. D. ſhall give bond to the ſaid S. P. with ſufficient ſurety or ſureties, in the ſum of *pounds*, being twice the value of the ſaid goods and chattels, to proſecute the ſaid replevin to final judgment, and to pay ſuch damages and coſts, as the ſaid S. P ſhall recover againſt him, and alſo to return and reſtore the ſame goods and chattels, in like good order and condition, as when taken, in caſe ſuch ſhall be the final judgment. And have you there this writ, with your doings herein, together with the bond you ſhall take.

Witneſs S. P. Eſq. at , this day of , *Anno Domini*, 18

E. P. *Clerk.*

And in caſe the plaintiff in replevin ſhall neglect to enter and proſecute the ſuit, the defendant may, upon complaint, have judgment for a return and reſtoration of the goods and chattels replevied, and damages for the taking, to the amount of ſix per cent on the bond, with reaſonable coſts, and a writ of return and reſtitution thereupon accordingly, And if upon a trial of the iſſue, judgment ſhall be rendered for a return and reſtitution, the intereſt of ſix per cent. upon the penal ſum of the bond ſhall be taken as a rule for eſtimating the plaintiff's damages, in caſe they were taken on execution. And when the cauſe of taking ſhall have been upon execution, the goods and chattels returned, ſhall be reſponſible for the ſpace of twenty days after the return; and if on mean proceſs, until thirty days ſhall have expired, after final judgment thereon, in caſe judgment ſhall not then have been given; but if final judgment

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ment on the mean proceſs ſhall have been given before the return, then for the ſpace of twenty days only, after the return, to the end, the creditor at whoſe ſuit they were originally taken, may have a complete remedy, and the benefit of his attachment. And the monies recovered by way of damages, by any officer who has taken or attached at the ſuit of a creditor, ſhall be conſidered and taken as recovered to the uſe of the creditor; and when received, be paid over to him accordingly.

And be it further enacted, That when the defendant in replevin cannot be found, an authentick copy of the writ of replevin atteſted by the officer, being left at his houſe or uſual place of abode, ſeven days, if before a Juſtice, and fourteen if before the Court of Common Pleas, prior to the time of trial, ſhall be ſufficient to oblige the defendant to anſwer to the ſuit.

And be it further enacted, That the form of the writ of return and reſtitution to be iſſued, to carry a judgment of that kind rendered before a Juſtice of the Peace, into execution, ſhall be in ſubſtance, as follows, viz.

Commonwealth of Maſſachuſetts.

D———ſſ.

To the Sheriff of our county of D. or his Deputy, Greeting.

(L. S.) Whereas P. D. of , in our county of *(addition)* lately replevied the beaſts following [*here inſert ſuch deſcription of them as they had in the writ of replevin*] which S. P. of , in our county of *(addition)* had unlawfully taken and unjuſtly detained, as the ſaid P. D. ſuggeſted, and cauſed the ſaid S. P. to be ſummoned before S. T. one of our Juſtices of the Peace for our ſaid county of D. to anſwer unto the ſaid P. D. for ſuch ſuppoſed unlawful taking and detaining, at a day now paſt: And whereas upon the day of , at aforeſaid upon a hearing of the cauſe of taking and detaining the ſaid beaſts, before our ſaid Juſtice, it appeared that the ſame taking and detaining was lawful and juſtifiable: Whereupon it was then and there conſidered, that the ſame beaſts be returned and reſtored to the ſaid S. P. irrepleviable, and that the ſaid S. P. recover againſt the ſaid P. D the ſum of *ſhillings* damages, for his taking the ſame, by the ſaid proceſs of replevin, and the further ſum of for his coſts ariſen in the defence of the ſaid ſuit, as by the record of our ſaid Juſtice before him remaining, to us appears; whereof execution remains to be done: We command you therefore, that you forthwith return and reſtore the ſame beaſts unto the ſaid S. P. And alſo that of the money of the ſaid P. D. or his goods or chattels, within your precinct, at the value thereof in money, you cauſe to be levied, paid and ſatisfied unto the ſaid S P. the aforeſaid ſums, being in the whole, with *one ſhilling* and *ſix pence* more, for this writ, together with your own fees; and for want

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want of such money, goods or chattels of the said P. D. to be by him shewn unto you, or found within your precinct, to the acceptance of said S. P. for satisfying the aforesaid sums: we command you to take the body of the said P. D. and him commit unto our gaol in . And we command the keeper thereof accordingly, to receive the said P. D. into our said gaol, and him safely to keep until he pay the full sums above mentioned, with your fees, or that he be discharged by the said S. P. the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming

Witness our said Justice at , the day of , in the year of our Lord S. T.

And be it further enacted, That when the Sheriff or other officer, unto whom the writ of return and restitution shall be directed, shall not be able to find the beast or other property in his precinct, which shall by the same precept be directed to be returned and restored irrepleviable, and the same shall appear in writing, by the return of the officer thereon, the Court from whence the same issued, may, upon motion, grant a withernham against the plaintiff in replevin, to compel a complete and specifick performance of the judgment; which writ of withernham shall be in substance as follows, viz.

Commonwealth of Massachusetts.

D——ff.

To the Sheriff of our county of D. or his Deputy, Greeting.

(L.S.) Whereas P. D. of in our county of D. *(addition)* lately replevied the beasts following, viz. [*here insert such description of them as they had in the writ of replevin*] and which were at the time of the replevy, of the value of , which S. P. of aforesaid, had unlawfully taken and detained, as the said P. D. suggested, and caused the said S. P. to be summoned before S. T. one of our Justices of the Peace for our said county of D. to answer unto the said P. D. for such supposed unlawful taking and detaining, at a day now past: And whereas, upon the day of , at aforesaid, upon a hearing of the cause of taking and detaining the said beasts, by our said Justice, it was determined, that the same taking and detaining was lawful and justifiable: Whereupon it was then and there considered, that the beast be returned and restored to the said S. P. irrepleviable, and for his damages and costs; and afterwards, on the day of , our writ of return and restitution issued, in due form of law, directed to the Sheriff of our said county of D. or his Deputy, to return the same accordingly; which writ of return and restitution was delivered to C. D. to execute accordingly; who

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who, on the day of , returned thereon, that [*here insert the return made by the officer of his inability to return the beasts.*] And we, being desirous that the said P. D. should not, by his false suggestions and pretensions, any longer detain the beasts, so by him replevied as aforesaid, command you forthwith to take the beasts of the said P. D. of like kind and value, if any he hath, to be found in your precinct, in withernham, and in default thereof, any other of his goods and chattels, to the full value, in withernham, and them deliver unto the said S. P to be by him kept, used and improved, until the said P D. shall restore him the beast he took from him, by our writ of replevin as aforesaid; and also that of the money of the said P. D. or of his goods or chattels to be found within your precinct, at the value thereof in money, you cause to be paid and satisfied unto the said S. P. *three shillings* for this writ, together with your own fees, for executing the same. Hereof fail not, and make return of this writ, with your doings herein, unto our said Justice, within sixty days next coming.

Witness our said Justice, at , the day of , in the year of our Lord . S. T.

And be it further enacted, That when the writ of return and restoration, or writ in withernham shall issue from any other court of law, or for any other property than beasts, the court from whence the same shall issue, shall so vary the form, as to them shall appear expedient to carry the same into full force and effect, as the nature and circumstances of the case shall require.

This act to be in force from and after the twentieth day of *October*, one thousand seven hundred and eighty-nine.

[This act passed *June* 25, 1789.]

RIOTS.

An Act to prevent Routs, Riots and tumultuous Assemblies, and the evil consequences thereof.

WHEREAS the provision already made by law, for the preventing routs, riots and tumultuous assemblies, and the evil consequences thereof, has been found insufficient:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That from and after the publication of this act, if any persons to the number of twelve or more, being armed with clubs or other weapons; or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously, or tumultuously assembled, any Justice of the Peace, Sheriff or Deputy Sheriff of the county, or Constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence, while proclamation is making;

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making; and shall openly make proclamation, in these or the words;

Commonwealth of Massachusetts.

By virtue of an act of this Commonwealth, made and passed in the year of our Lord one thousand seven hundred and eighty six, entitled, "An Act for suppressing routs, riots and tumultuous assemblies, and the evil consequences thereof," I am directed to charge and command, and I do accordingly charge and command, all persons being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations or to their lawful business, upon the pains inflicted by the said act.

GOD save the Commonwealth.

And if such persons, assembled as aforesaid, shall not disperse themselves within one hour after proclamation made, or attempted to be made, as aforesaid, it shall be lawful for every such officer to command sufficient aid, and he shall seize such persons, who shall be had before a Justice of the Peace, and the aforesaid Justice of the Peace, Sheriff or Deputy Sheriff, is hereby further empowered, to require the aid of a sufficient number of persons, in arms, if any of the persons assembled as aforesaid shall appear armed: And if any such person or persons shall be killed or wounded, by reason of his or their resisting the persons endeavouring to disperse or seize them, the said Justice, Sheriff, Deputy Sheriff, Constable and their assistants, shall be indemnified and held guiltless.

And be it further enacted, That if any person being commanded by such Justice, Sheriff, Deputy Sheriff or Constable as aforesaid shall refuse or neglect to afford the assistance required, and shall be convicted thereof upon the oath of either of the said officers, so commanding, or other legal evidence, he shall forfeit and pay a sum not less than *forty shillings*, nor exceeding *ten pounds*, to be recovered by indictment or presentment, before the Supreme Judicial Court, or any Court of General Sessions of the Peace, according to the aggravation of the offence; to be paid into the publick treasury, for the use of the Commonwealth.

And be it further enacted, That all persons, who, for the space of one hour after proclamation made, or attempted to be made as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, or shall wilfully let or hinder any such officer, who shall be known, or shall openly declare himself to be such, from making the said proclamation, shall forfeit all their lands, tenements, goods and chattels, to this Commonwealth, or such part thereof as shall be adjudged by the Justices before whom such offence shall be tried, to be applied towards the support of the government of this Commonwealth; and shall be whipped thirty-nine stripes on the naked back, at the publick whipping post, and

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ſuffer imprisonment for a term not exceeding twelve months, nor leſs than ſix months; and once every three months, during the ſaid imprisonment, receive the ſame number of ſtripes on the naked back, at the publick whipping poſt as aforeſaid. And if any ſuch perſon or perſons, ſo riotouſly aſſembled, ſhall demoliſh or pull down, or begin to demoliſh or pull down, any dwelling houſe, or other houſe, or parcel thereof, any houſe built for publick uſes, any barn, mill, malthouſe, ſtorehouſe, ſhop or ſhip, he or they ſhall ſuffer the ſame pains and penalties as are before provided in this act.

Provided always, That where there ſhall appear any circumſtances to mitigate or alleviate any of the offences againſt this act, in the judgment of the court before which ſuch offence ſhall be tried, it ſhall and may be lawful for the Juſtices of ſuch court, to abate the whole of the puniſhment of whipping, or ſuch part thereof as they ſhall judge proper; any thing in this act to the contrary notwithſtanding.

And be it further enacted, That this act ſhall be read at the opening of every Court of General ſeſſions of the Peace, by the clerk of the ſaid court, and at the anniverſary meeting of each town within this Commonwealth, by the town clerk thereof, in *March* or *April*, annually: And no perſon ſhall be proſecuted for any offence contrary to this act, unleſs proſecution be commenced within twelve months after the offence committed.

[This act paſſed *October* 28, 1786.]

ROGUES.—See BEGGARS, &c.

SABBATH DAY.—See LORD'S DAY.

SEAMEN.—See MARINERS.

SCHOOLS.

The following are extracts from the Act to provide for the inſtruction of Youth, and for the promotion of good education.

AND whereas ſchools for the education of children in the moſt early ſtages of life may be kept in towns, diſtricts or plantations, which ſchools are not before particularly deſcribed in this act; and that the greateſt attention may be given to the early eſtabliſhing juſt principles in the tender minds of ſuch children, and carefully inſtructing them in the firſt principles of reading:

Be it enacted, That no perſon ſhall be allowed to be a maſter or miſtreſs of ſuch ſchool or to keep the ſame, unleſs he or ſhe ſhall obtain a certificate from the ſelectmen of ſuch town or diſtrict where

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where the same may be kept, or the committee appointed by such town, district or plantation to visit their schools, as well as from a learned minister settled therein, if such there be, that he or she is a person of sober life and conversation, and well qualified to keep such school. And it shall be the duty of such master or mistress, carefully to instruct the children attending his or her school in reading, (and in writing if contracted for) and to instil into their minds a sense of piety and virtue, and to teach them decent behaviour. And if any person shall presume to keep such school, without a certificate as aforesaid, he or she shall forfeit and pay the sum of *twenty shillings*; one moiety thereof to the informer, and the other moiety to the use of the poor of the town, district or plantation where such school may be kept.

Be it further enacted by the authority aforesaid, That no person shall be permitted to keep within this Commonwealth, any school described in this act, unless in consequence of an act of naturalization, or otherwise, he shall be a citizen of this or some other of the United States; and if any person who is not a citizen of this or some one of the United States, shall presume to keep any such school within this State for the space of one month, he shall be subjected to pay a fine of *twenty pounds*, and a proportionable sum for a longer or shorter time; the one half of which fine shall be to the use of the person who shall sue for the same, and the other half thereof to the use of this Commonwealth.

And be it further enacted by the authority aforesaid, That all fines and forfeitures for a breach of this act, shall be recovered by bill, plaint, or information before any court proper to try the same; and all Grand Jurors, shall diligently inquire and presentment make, of all breaches and neglects of this law.

SEARCH WARRANT.

FORMS.

I.

D——ff.

To the Sheriff of said county, or his Deputy, or to either of the Constables of the town of , in said county,

Greeting.

(L.S.) Forasmuch as the foregoing complaint hath this day been made upon oath, to me the subscriber one of the Justices of the Peace, within and for the said county of D.

These are therefore in the name of the Commonwealth of Massachusetts, to require you, and you are hereby required, forthwith with

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with neceſſary and proper aſſiſtants, to enter, in the day time, into the of E. B. of , &c. and there diligently ſearch for the goods (*or*) mentioned in the above information,* and if the ſame or any part thereof ſhall be found on ſuch ſearch, that you bring the goods (*or* the ſame) ſo found, together with the body of the ſaid C. D. (if he may be found in your precinct) or perſon in whoſe poſſeſſion the ſame may be found, before me, or ſome other of the Juſtices of the Peace, within and for the county aforeſaid, to be diſpoſed of and dealt with as to law and juſtice ſhall appertain.

You are alſo required to notify the complainant to appear and give evidence touching the matter contained in the above complaint, when and where you ſhall have the ſaid goods and perſon, or either of them.

Given under my hand and ſeal, at aforeſaid, the day of , in the year of our Lord one thouſand eight hundred and

S. T.

II.

Another detached from the Complaint.

D———ſt.

To the Sheriff, &c. (*as above.*)

(L. S.) Whereas E. B. of, &c. hath this day made complaint to me the ſubſcriber, one of the Juſtices of the Peace, within and for the ſaid county of D. that the following goods, viz. * * * of the value of , * * * of the value of , and all of the value of , (*or as the complaint may be*) the property of him the ſaid E B. have, &c. as per complaint above) and therefore prayed for a warrant to ſearch there for the ſame.

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to require and command you forthwith, with neceſſary and proper aſſiſtants, to enter in the day time, into the of him the ſaid C. D. and there diligently ſearch for the ſaid goods, (*or*) and if the ſame or any part thereof ſhall be found on ſuch ſearch, that you bring the goods ſo found, (*or* the ſame) together, &c. (*as in the laſt.*)

Given, &c. S. T.

SERVANTS.—See APPRENTICES, page 12.

SHEEP.

* See under the article Complaint, page 64.

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SHEEP.

An Act to regulate the going at large of Sheep, Rams and He-Goats at certain Seasons of the Year.

SECT. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That if any owner of any ram or he-goat shall suffer the same to go at large, or be out of his or her enclosure, between the tenth of *August* and the twentieth day of *November*, annually, such owner shall forfeit and pay *two dollars*, to such person who shall find and take up such ram or he-goat, for each time he shall be so found at large, out of the owner's enclosure and taken up, and the same may be recovered by action of debt, with costs of suit, before any Justice of the Peace of the county where such ram or he-goat shall be so taken up, or of the county where such owner may dwell; and in case the owner shall not be known, the person so finding and taking up any ram or he-goat as aforesaid, shall secure and keep the same, and within twenty-four hours after, shall lodge notice in writing by him signed with the town clerk, setting forth the colour and marks, natural and artificial, (if such there be) which clerk shall make a record thereof, and post up, or direct the finder to post up the same at some such publick place in said town as the said clerk shall fix upon, and for his service herein, shall have *twenty-five cents* paid him by the person lodging said notice. And in case the owner of any ram or he-goat so found, taken up and posted, shall within five days next after such posting, pay or tender to the party, so taking up the same, the said forfeiture, such ram or he-goat shall be restored to the owner; but if the owner do not appear and pay or tender as aforesaid within the said five days, such ram or he-goat shall be forfeited to the prosecutor; and if such owner shall be convicted of a second offence, he shall incur the like forfeiture to the prosecutor. *Provided*, That this act shall not extend or be construed to extend to the Island of *Nantucket*, or to the county of *Barnstable*, or any part thereof.

SECT. 2. *And be it further enacted*, That if any person shall suffer his or her sheep to go at large on the common or ways in any town or district, without being under the care of a shepherd or keeper, such person shall forfeit and pay for each sheep so at large and without a keeper, *five cents*, to the person injured, to be recovered by action on the case, with costs of suit, or the same may be impounded at his election, and the owner shall not regain them but on the payment of *five cents* for each sheep.

SECT. 3. *And be it further enacted*, That it shall be the duty of the field driver in each town or district, when sheep shall be found so going at large and without a keeper, to impound the same, and

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and when the owner ſhall appear, to demand *five cents* for each ſheep ſo impounded, and if no owner appeareth within forty-eight hours to proceed with them as the law directs reſpecting ſtray beaſts.

SECT. 4. *And be it further enacted*, That all laws heretofore paſſed reſpecting ſheep, rams and he-goats, are hereby repealed.

[This act paſſed *March* 7, 1797.]

SMALL POX.

An Act to prevent the ſpreading of contagious Sickneſs.

SECT. 1. BE *it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That for the better preventing the ſpreading of infection when it ſhall happen that any perſon or perſons coming from abroad, or belonging to any town or place within this ſtate, ſhall be viſited, or ſhall lately before have been viſited with the plague, ſmall-pox, peſtilential or malignant fever, or other contagious ſickneſs, the infection whereof may probably be communicated to others, the ſelectmen of the town where ſuch perſon or perſons may arrive or be, are hereby empowered to take care and make effectual proviſion, in the beſt way they can, for the preſervation of the inhabitants, by removing ſuch ſick or infected perſon or perſons, and placing him or them in a ſeparate houſe or houſes, and by providing nurſes, attendance and other aſſiſtance and neceſſaries for them, which nurſes, attendance and other aſſiſtance and neceſſaries, ſhall be at the charge of the parties themſelves, their parents or maſters, (if able) or otherwiſe at the charge of the town or place whereto they belong: And in caſe ſuch perſon or perſons are not inhabitants of any town or place within this ſtate, then at the charge of the Commonwealth.

SECT. 2. *And be it further enacted*, That any perſon or perſons coming from any place out of this ſtate where the ſmall-pox or other malignant diſtemper is prevailing, into any town within this ſtate, ſhall, when thereto required by the ſelectmen of ſuch town within the ſpace of two hours from the time they ſhall be firſt informed of their duty by law in this particular, give notice to one or more of the ſelectmen or the clerk of ſuch town, of their coming there, and of the place from whence they came, upon pain of forfeiting, in caſe of neglect, the ſum of *one hundred dollars*. And ſuch perſon or perſons, if not diſabled by ſickneſs, ſhall within the ſpace of two hours after warning given to him or them by the ſelectmen of ſuch town for that purpoſe, depart from this ſtate in ſuch manner and by ſuch road as the ſaid ſelectmen ſhall direct. And in caſe of refuſal, it ſhall be lawful for any Juſtice of the Peace

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Peace in the county where such town may lie, by a warrant directed to a constable or other proper officer, or other person whom the Justice shall judge proper, to cause such person or persons to be removed into the state from whence he or they may have come; and any person removed by warrant as aforesaid, who during the prevalence of such distemper, shall presume to return into any town of this state, without liberty first obtained from such Justice shall forfeit and pay the sum of *four hundred dollars*; and any inhabitant of this state, who shall entertain in his house any person warned to depart as aforesaid, for the space of two hours after notice given him of such warning by one or more of the selectmen aforesaid, shall forfeit and pay the sum of *two hundred dollars*.

Sect. 3. *And be it further enacted*, That it shall and may be lawful for the Selectmen of any town near to, or bordering upon either of the neighbouring states, to appoint by writing under their hands, some meet person or persons to attend at ferries or other places by or over which passengers may pass from such infected places; which person or persons so appointed, shall have power to examine such passengers as they may suspect to bring infection with them, and, if need be, to hinder and restrain them from travelling, until licensed thereto by a Justice of the Peace within such county, or by the selectmen of the town in which such person or persons may come; and any passenger who, coming from such infected place, shall (without license as aforesaid) presume to travel within this state, unless it be to return by the most direct way to the state from whence he came, after he shall be cautioned to depart by the person or persons appointed as aforesaid, shall forfeit and pay the sum of *one hundred dollars*; the several forfeitures aforesaid, to be recovered by action of debt in any court of record proper to try the same; one moiety to and for the use of the town where the offence shall be committed, the other moiety to the use of the person who may sue for the same.

Sect. 4. *And be it further enacted*, That if need be, any two Justices of the Peace may make out a warrant directed to the sheriff of the county or his deputy, or constables of the town or place where any such sick person or persons may be, requiring them or any of them, in the name of the Commonwealth, with the advice and direction of the selectmen of the same, to remove such infected person or persons, or to impress and take up convenient houses, lodging, nurses, attendance and other necessaries, for the accommodation, safety and relief of the sick. And such sheriff, his deputy and constable, are hereby authorised and required to execute such warrant accordingly.

Sect. 5. *And be it further enacted*, That whenever there shall be brought into any town within this state, either from any other town therein or from parts without the state, any baggage, clothing or goods of any kind whatsoever, and it shall be made to appear by the selectmen of the town to which such baggage, cloth-

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ing or other goods ſhall be brought, or by the major part of ſuch ſelectmen to the ſatisfaction of any Juſtice of the Peace, that there is juſt cauſe to ſuſpect ſuch baggage, clothing or other goods to be infected with the plague, ſmall-pox, peſtilential fever, or other malignant contagious diſtemper, it ſhall be lawful for ſuch Juſtice of the Peace, and he is hereby required in ſuch caſe, by warrant under his hand and ſeal, directed to the ſheriff or his deputy, or any conſtable of the town in which ſuch baggage, clothing or other goods ſhall be, requiring him to impreſs ſo many men as ſaid Juſtice ſhall judge neceſſary to ſecure ſuch baggage, clothing or other goods, and ſaid men to poſt as a guard and watch over the houſe or other place or places where ſuch baggage, clothing or other goods ſhall be lodged; which guard and watch are hereby required to take effectual care to prevent ſuch baggage, clothing or other goods being removed or intermeddled with by any perſons whatſoever, until due enquiry be made into the circumſtances thereof; requiring likewiſe the ſaid ſheriff, his deputy or the conſtable aforeſaid, if it ſhall appear neceſſary, with the advice and direction of ſaid ſelectmen, to impreſs and take up convenient houſes or ſtores for the receiving, lodging and ſafe keeping of ſuch baggage, clothing or other goods, until the ſame ſhall be ſufficiently cleanſed from infection. And in caſe it ſhall appear highly probable to the ſaid Juſtice that ſuch baggage, clothing or other goods are infected as aforeſaid, he is hereby empowered and directed to iſſue his warrant in manner as aforeſaid, requiring ſaid ſheriff, his deputy or any conſtable, or other perſon therein ſpecially named, to remove ſaid baggage, clothing or other goods to ſome convenient place where there ſhall be the leaſt danger of the infection ſpreading, there to remain, until the ſame ſhall be ſufficiently aired and freed from infection in the opinion of ſaid ſelectmen. And the ſaid ſheriff, deputy ſheriff or conſtable, in the execution of ſaid warrants, are empowered and directed, if need be, to break up any houſe, ware-houſe, ſhop or other place particularly mentioned in ſaid warrant, where ſuch baggage, clothing or other goods ſhall be; and in caſe of oppoſition, to require ſuch aid as ſhall be neceſſary to effect the execution of ſaid warrants, and repel ſuch oppoſition; and all perſons are hereby required, at the commandment of either of the ſaid officers, having either of the warrants aforeſaid, under penalty of *ten dollars*, to be recovered before any Juſtice of the Peace in the county where ſuch oppoſition may happen, to aſſiſt ſuch officer in the execution of the ſame warrant, againſt any oppoſition as aforeſaid; and the charges of ſecuring ſuch baggage, clothing or other goods and of airing and tranſporting the ſame, ſhall be borne and paid by the owner thereof, at ſuch rates and prices as ſhall be ſet and appointed by the ſelectmen of the town where ſuch baggage, clothing or other goods ſhall be, to be recovered by action of debt,

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debt, by any perſon or perſons who may have been employed in the buſineſs aforeſaid, in any court of record proper to try the ſame.

[This act paſſed *June* 12, 1797.]

FORMS.

Complaint againſt a perſon coming from a Place where the Small-Pox or other Malignant Diſorder is prevailing.

To S. T. Eſq. one of the Juſtices of the Peace within and for the county of D.

Complains upon oath, A. B. C. D. and E. F. Selectmen of the town of in ſaid county, That H. I. now reſident in ſaid town, hath come into the ſaid town from , where, as your complainants have reaſon to believe, and do believe, the ſmall-pox (*or*, &c.) is prevailing, and not having given notice thereof to the ſelectmen or clerk of ſaid town, although thereto required, as the law directs, hath been duly warned by your complainants to depart from this State, but hath refuſed ſo to do: They therefore pray for a warrant to remove him as the law in ſuch caſe directs.

A. B.
C. D.
E. F.

D———ſſ. The above named made oath to the truth of the foregoing complaint,

Before me, S. T. Juſtice of the Peace.

On this complaint, the Juſtice may iſſue a warrant for apprehending the perſon complained of, to be brought before him, and if he ſhall, on examination thereon, conſider that the facts therein ſtated are true, he may thereupon iſſue a

Warrant of Removal.

D———ſſ.

(L.S.) To the Sheriff of the ſaid county of D. or his Deputy, or any of the Conſtables of the town of in the ſaid county, or to , Greeting.

It appearing to me the ſubſcriber, one of the Juſtices of the Peace for the ſaid county of D. That H. I. now reſident in ſaid town, hath come into the ſame from , where the ſmall-pox (*or*, &c.) is prevailing, and that, although legally warned by the ſelectmen of ſaid town to depart from this State, he hath refuſed ſo to do:

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These are therefore, in the name of the Commonwealth of Maſſachuſetts, to require you forthwith to cauſe the ſaid H. I. to be removed from to , from whence he came. Hereof fail not, and make due return of this warrant.

Given under my hand and ſeal, the day of , A. D. 18 S. T.

Application to two Juſtices, and a Warrant for removing infected Perſons, or impreſſing Houſes, Nurſes, &c.

Application.

To S. T. and J. F. two of the Juſtices of the Peace within and for the county of D.

R. D. &c. one of the ſelectmen of the town of in ſaid D. upon oath, repreſents, That are (*or* is) ſick with the ſmall-pox (at the houſe of in ſaid town of , and for the ſafety of the inhabitants thereof ought to be removed , or) and for their accommodation, ſafety and relief, ſtand in need of, &c. (convenient houſes, lodging, nurſes, attendance or other neceſſaries) and the ſaid ſelectmen, by their own influence, endeavours or authority, have been unable to provide any. Your complainant therefore, in their behalf, requeſts that you would, as the law directs, iſſue a warrant to (remove the ſaid to , &c. *or*,) provide, &c. (*as the caſe may be.*)

D—— ſſ. Sworn to before us the day of , A. D. 18

S. T. } Juſtices of the Peace
J. F. } for ſaid county.

Warrant.

D——ſſ.

(L.S.) To the Sheriff of the county of D. or his Deputy, or any of the Conſtables of the town of in ſaid county, Greeting.

In compliance with the foregoing requeſt, and by virtue of the law of the Commonwealth of Maſſachuſetts, intitled, "An Act to prevent the ſpreading of contagious Sickneſs," You are hereby required, in the name of the Commonwealth of Maſſachuſetts, with the advice and direction of the ſelectmen of the ſaid town of , (to remove therein mentioned, to , *or*) to impreſs [*here inſert the neceſſary articles*] which are judged neceſſary for the accommodation (*or* ſafety and relief) of the ſaid , &c. (*as the caſe may be.*)

Given under my hand and ſeal this day of , A. D. 18

S. T. } One of the Juſtices of the Peace for the ſaid county of D.

STRAY

STRAY BEASTS.—See LOST GOODS, page 159.

SUBPŒNAS.—See CIVIL ACTIONS, page 29.

SWEARING.—See PROFANE CURSING and SWEARING, page 231, &c.

SWINE.

An Act for regulating Swine, passed February 13, 1789.

BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That there shall be appointed at the annual meeting in *March* or *April*, in each town in this Commonwealth, two or more persons for hogreeves, who shall be chosen and sworn in the same manner as other town officers; whose duty it shall be to carry the regulations made by this act into execution; and any person who shall suffer his swine to go at large out of his inclosure shall forfeit and pay *one shilling* for each swine thus suffered to go at large, to be recovered with costs of suit by any hogreeve or other person who will sue therefor, before a Justice of the Peace in the same county, by action of debt or by impounding such swine. And when swine are impounded, to recover the penalty incurred by this act, the owner, if known, shall be notified in the time and manner by law directed, and if unknown, such notice of the time, place and cause of impounding, shall be given as the law in that case hath directed; and if no owner appear within three full days after the impounding, to pay the forfeiture and charges, and reasonable expense of keeping, or to replevy such swine, the impounder may in writing apply to a Justice of the Peace of the same county, or to the clerk of the same town, and there file an information of the transaction upon oath; and if it shall appear from such information to the satisfaction of the Justice or clerk, that such impounder has complied with the directions of the law in such cases, then such Justice or clerk may issue a precept in form as hereafter prescribed, to any constable of the same town, if the constable himself is not the impounder or interested; and if he is, to any other discreet or disinterested inhabitant of the same town, to sell the swine, and after paying the impounder the fine and costs and expenses, to be taxed and allowed by the Justice or clerk, to deliver the surplusage into the town treasury, there to remain for the owner, deducting *one shilling* on the *pound* for the treasurer's trouble, in case he shall appear and claim it within one year and a day from the time of issuing such precept; but in case no owner appear within that time, such surplusage shall be one half to the impounder,

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impounder, and the other half to the poor of the town, and be by the treaſurer diſtributed accordingly.

And be it further enacted, That the form of the precept to be iſſued for ſelling ſwine impounded, to recover the forfeiture incurred by a breach of this act, ſhall be in ſubſtance, as follows:

D———ſſ. To either of the Conſtables of the town of , Greeting.

(L.S.) Whereas A. B. of in the county of D. [*addition*] has this day given me information, that on the day of , he found a ſwine [*here inſert the marks, natural and artificial, if any, and ſuch a deſcription of the ſize and age as can conveniently be done*] owned by C. D. of [*addition*] going at large in ſaid town of , againſt the ſtatute in that caſe provided; whereby the ſaid C. D. forfeited the ſum of *one ſhilling*; for the recovery of which he impounded the ſame ſwine, and within twenty-four hours then next following, gave him notice thereof in writing, (*or*, left a notification thereof at his dwelling-houſe, *as the caſe may be*) and although three full days have elapſed ſince the impounding, yet he has not paid the ſaid forfeiture and charges, nor has he replevied the ſame ſwine (*or* in caſe the owner is unknown, after the deſcription of the ſwine, its marks, natural and artificial, let it be inſerted, belonging to ſome perſon unknown) at the time of impounding, going at large, againſt the ſtatute in that caſe provided, whereby the owner forfeited the ſum of *one ſhilling*, for the recovery of which he impounded the ſame ſwine, and within twenty-four hours then next following, cauſed notifications of the time, place and cauſe of impounding, to be poſted up agreeably to the directions of the law in ſuch caſes; and although three full days have elapſed ſince the impounding, no perſon hath appeared to pay the ſaid forfeiture and charges, or replevied the ſame ſwine, as by the information by him ſigned and ſworn unto, with me now remaining, appears:

Theſe are therefore, in the name of the Commonwealth of Maſſachuſetts, to will and require you, after you have poſted up notifications of the time and place of ſale, twenty-four hours before hand, to ſell and diſpoſe of the ſaid ſwine, at ſuch time and place, as you ſhall have thus appointed, to the higheſt bidder; and from the monies ariſing upon the ſale, you are to pay the ſaid A. B. *one ſhilling* for the ſaid forfeiture, and *ſhillings* and *pence*, by me allowed, for his coſts, charges and expenſes (according to the bill annexed) and *one ſhilling* and *ſix pence* more for this precept, amounting in the whole to *ſhillings* and *pence*. And the ſurplus ariſing from ſuch ſale, deducting *three ſhillings* and *ſix pence* for your own fees on the buſineſs, you are to pay over to the town treaſurer of , to be diſpoſed of as the law directs; and you are alſo directed to deliver the ſaid treaſurer a copy of the information of the ſaid E. B. as it is recited herein, together

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together with a certificate of the date of this proceſs: And of this precept, with your doings hereon, you are to make return into the office of the town clerk of , in fourteen days from this time.

Given under my hand and ſeal, this day of , *Anno Domini*,

And when the precept is directed to a particular perſon by name, becauſe the conſtable himſelf is the impounder or intereſted, ſuch perſon ſhall be ſworn faithfully and impartially to execute it, according to the tenor thereof.

Be it further enacted, That any town may, at the annual meeting in *March* or *April*, by a vote thereof, give liberty for ſwine to go at large during the whole or part of the year, in ſuch town, or in ſuch parts thereof, as the town ſhall determine moſt for the benefit of the inhabitants; in which caſe it ſhall be lawful for any perſon reſiding therein, to ſuffer his ſwine to go at large accordingly, without incurring the forfeiture aforeſaid; any thing in this act contained to the contrary notwithſtanding. *Provided* ſuch ſwine ſhall be ſufficiently yoked from the fifteenth day of *April* to the firſt day of *November*, and conſtantly ringed in the noſe all the time they ſhall be permitted to go at large.

And that it may be known what a ſufficient yoking doth mean,

Be it further enacted, That a yoke which is the full depth of the ſwine's neck, above the neck, and half ſo much below the neck, and the ſoal or bottom of the yoke full three times as long as the breadth or thickneſs of the ſwine's neck upon which it ſhall be placed, ſhall be deemed a ſufficient yoking within the meaning of this act.

An Act for the amendment of an Act, entitled, "An Act for regulating Swine," made and paſſed on the thirteenth day of *February*, in the year of our Lord one thouſand ſeven hundred and eighty-nine.

Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That no perſon ſhall ſuffer his ſwine to go at large, under a vote of any town, without incurring the forfeiture therein provided, unleſs ſuch ſwine be ſufficiently yoked at all times when permitted to go at large as aforeſaid, between the fifteenth day of *March* and the firſt day of *December*, annually; any thing in the aforeſaid act to the contrary notwithſtanding.

[This Act paſſed *March* 7, 1797.]

TAXES.—See under POOR PRISONERS, page 226, &c.

TAXES

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TAXES ON PLANTATIONS.

Extract of an Act for enforcing the ſpeedy Payment of Rates, &c. paſſed February 16, 1786.

AND *be it further enacted*, That when any part or proportion of any ſtate or county tax, ſhall be laid on any plantation, not incorporated, the treaſurer of the State, or of ſuch county reſpectively, ſhall iſſue his precept to ſome Juſtice of the Peace, dwelling near to ſuch plantation, requiring him forthwith to grant his warrant, directed to ſome principal inhabitant of ſuch plantation, requiring him to notify and warn the inhabitants of ſuch plantation being freeholders, to meet at ſuch time and place within the ſame, as in ſuch warrant ſhall be ſpecified, in order to chooſe needful officers for the purpoſes hereafter mentioned, and ſuch principal inhabitant is hereby obliged to obſerve and obey the warrant that he ſhall receive from ſuch Juſtice, on the penalty of forfeiting and paying the whole ſum that ſhall be ordered to be levied on ſuch plantation, to be recovered by action of debt by ſaid reſpective treaſurers, in any court of record within this Commonwealth, proper to try the ſame. And ſuch principal inhabitant ſhall make return of the Juſtice's warrant to the Juſtice who iſſued it, with his doings therein, and the doings of the plantation in conſequence of it, within the time limited in ſuch warrant; and the Juſtice ſhall thereupon certify ſuch doings to the State or county treaſurer reſpectively; and ſuch of ſaid inhabitants as ſhall then aſſemble, ſhall have power, and they are hereby required to chooſe a moderator and clerk, as alſo aſſeſſors and collectors for aſſeſſing and collecting ſuch plantation's proportion of ſuch ſtate and county tax as ſhall be ordered to be aſſeſſed, to be duly paid when collected by ſuch collectors, to the ſtate or county treaſurers reſpectively.

FORMS.

I.

Warrant for a Meeting of the Inhabitants of a Plantation, to be iſſued upon a Precept from the Treaſurer of the Commonwealth, or County Treaſurer.

D———ſſ.

To A. B. a principal inhabitant of the plantation called , in ſaid county, Greeting.

(L.S.) In obedience to a precept from C. D. treaſurer of , directed to me the ſubſcriber, one of the Juſtices of the Peace within and for the ſaid county of D. dwelling near ſaid plantation, You are hereby required in the name of the Commonwealth

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monwealth of Maſſachuſetts, to notify and warn the inhabitants of ſaid plantation, being freeholders, to meet at , on the day of , at o'clock in the noon, to chooſe a moderator and clerk, as alſo aſſeſſors and collectors, for aſſeſſing and collecting ſaid plantation's proportion of the tax, ordered, &c. Hereof fail not, and make return to me of this warrant, and of your doings therein, and the doings of the ſaid plantation in conſequence thereof, on or before the day of next (or, within from the date hereof.)

Given under my hand and ſeal this day of , A. D. 18 .

S. T.

II.

Return to the Treaſurer.

To , Treaſurer of .

Sir,

In obedience to your precept, to me directed, I did, on the day of laſt, iſſue my warrant to , a principal inhabitant of the plantation called , requiring him to notify and warn the inhabitants of ſaid plantation, being freeholders, to meet at , on the day of laſt, to chooſe a moderator and clerk, as alſo aſſeſſors and collectors for aſſeſſing ſaid plantation's proportion of the tax in your precept mentioned; and the ſaid hath made return to me of his doings, and of the doings of ſaid plantation, as follows, viz. [*here inſert the ſubſtance of ſuch return.*]

I do therefore hereby certify the ſame to you, agreeably to ſaid precept, and a law of the Commonwealth, in ſuch caſes made and provided.

S. T. Juſtice of the Peace.

TOWNS.

Extract from the Act for regulating Towns, paſſed March 23, 1786.

AND *be it further enacted by the authority aforeſaid*, That the freeholders and other inhabitants of each reſpective town qualified as aforeſaid, at the annual meeting, for the choice of town officers, or at any other town meeting regularly warned, may grant and vote ſuch ſum or ſums of money, as they ſhall judge neceſſary for the ſettlement, maintenance and ſupport of the miniſtry, ſchools, the poor, and other neceſſary charges ariſing within the ſame town; to be aſſeſſed upon the polls and property within the ſame, as by law provided; and they are alſo hereby empowered to make and agree upon ſuch neceſſary rules, orders and bye-laws, for the directing, managing and ordering the prudential affairs

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fairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same, not exceeding *thirty shillings* for one offence; to enure to such uses as they shall therein direct; provided they be not repugnant to the general laws of the government; and provided also, such orders and bye-laws shall have the approbation of the Court of General Sessions of the Peace of the same county: And may also allow and approve of any town or private way laid out by the selectmen of the same town; or alter or discontinue any town or private way, heretofore laid out and improved as such, when it shall appear that the same is unnecessary for the inhabitants of such town. *Saving always*, to any person aggrieved, or who thinks himself injured, liberty of applying for remedy to the Court of General Sessions of the Peace in the same county, who are hereby empowered and directed, to inquire into and determine the matter by a jury, thereunto appointed, as well with respect to the necessity and convenience, by such discontinuance, laying out or alteration as to the damage that may happen or accrue, to any particular person or persons thereby; and thereupon to assess damages for the party injured, to be paid by such town; unless it appears that the person on whose behalf application has been made, had no just cause of complaint; in which case the complainant shall pay all such costs and charges as may arise by such application to the Court of Sessions. And the verdict of a jury being received and recorded, shall be final and conclusive. *Provided*, such application be made to the Court of General Sessions of the Peace, within twelve months after such way is approved, altered or discontinued as aforesaid, and not otherwise.

An Act for carrying into Execution, more effectually, the Bye-Laws of the several Towns within this Commonwealth.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the passing of this Act, all fines and forfeitures, accruing for the breach of any bye-law, in any town within this Commonwealth, may be prosecuted for and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are now prosecuted before the Justices of the Peace within this Commonwealth.

[This act passed *March* 3, 1802.]

TOWN MEETINGS.—See MEETINGS, page 166, &c.

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TRESPASSES.

An Act for the more effectually preventing of Treſpaſſes in divers Caſes.

WHEREAS evil minded perſons, in various inſtances, have committed treſpaſſes upon the property and poſſeſſions of others: And whereas the remedy provided, and penalties annexed by the common law, to the commiſſion of ſuch offences, have been found inſufficient to prevent them:

Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That if any perſon ſhall cut down, deſtroy or carry away any tree or trees whatever, placed or growing for uſe, ſhade or ornament; or any timber, wood or underwood, ſtanding, lying, or growing on land not his own, not having the conſent of the owner thereof; or ſhall throw down or open any bars or gates, fence or fences, and leave the ſame down or open; or ſhall injure mar or deface, any fence or fences, belonging to, or encloſing lands not his own; or ſhall dig up or carry away any ſtones, oar, gravel, clay, ſand, turf or mould, roots, fruit or plants; or cut down or carry away any ſedge, graſs, hay or corn, wherein he hath no intereſt, ſtanding, lying, or being on any land not his own; or ſhall take or carry away from any wharf or landing place, whereof he is not a proprietor or owner, any goods whatever, wherein he hath no intereſt, without the leave of ſome perſon who hath intereſt therein or ſhall break the glaſs, or any part of it, in any building not his own; the perſon ſo offending ſhall forfeit and pay for each tree or ſtick of timber ſo cut down, deſtroyed or carried away, and for each and every other offence, a fine not leſs than *five* nor more than *forty ſhillings*, to the uſe of the Commonwealth, to be recovered on complaint before any Juſtice of the Peace in the county where the offence ſhall be committed, and ſhall be liable to anſwer in damages to the party injured.

And be it enacted, by the authority aforeſaid, That if any perſon ſhall wilfully break, deface or deſtroy any mileſtone or publick monument, unleſs properly authoriſed ſo to do, the perſon ſo offending ſhall forfeit and pay for each offence, a fine not leſs than *forty ſhillings*, nor more than *fifteen pounds*, to the uſe aforeſaid, to be recovered on indictment before the Court of General Seſſions of the Peace in the county where the offence ſhall be committed, and be further liable to anſwer in damages as aforeſaid.

And it is further enacted, That any perſon who ſhall commit any of the offences abovementioned, ſecretly, in the night time, or in diſguiſe, ſhall forfeit and pay a fine to the uſe of the Commonwealth, not leſs than *three pounds*, nor more than *twenty pounds*,

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manner as they ſhall judge moſt equal and juſt, by poll, eſtate, or both, to be applied accordingly.

SECT. 4. *Be it further enacted*, That whenever a watch ſhall be ſo appointed and agreed upon, different from a conſtable's watch, the number and qualifications of the perſons whereof it ſhall conſiſt, ſhall alſo be agreed upon by the ſaid inhabitants of the town obſerving the rule preſcribed in the firſt ſection of this act; and one ſober, diſcreet, able bodied houſeholder ſhall be appointed officer of the watch, by ſaid Juſtices and ſelectmen, or ſelectmen alone, (as the caſe may be) to take the charge and command of ſuch watch, who, as the badge of his office, ſhall carry a quarter pike with a ſpire on the top thereof; and every watchman, as well in this as in the conſtable's watch, ſhall carry a ſtaff with a bill faſtened thereon, as is uſual. And the powers and duties of the ſaid officer and watchmen ſhall be the ſame as are before preſcribed in the ſecond ſection of this act in the caſe of a conſtable's watch.

SECT. 5. *Be it further enacted*, That if any perſon liable to watch or ward as aforeſaid, being duly warned by the officer of the watch or conſtable, or by any other perſon appointed by ſuch officer or conſtable, ſhall refuſe or neglect to appear and attend his duty in that reſpect, either by himſelf or ſome other ſufficient perſon in his ſtead, and be thereof convicted before a Juſtice of the Peace, either by the oath of the conſtable, officer or other ſufficient teſtimony on oath, without a juſt and reaſonable excuſe to be made and given for the ſame, he ſhall forfeit and pay for each offence the ſum of one dollar to the uſe of the poor of the town or diſtrict; the ſame with coſts of proſecution to be levied by diſtreſs and ſale of the goods and chattels of ſuch offenders, or otherwiſe be committed to priſon until the ſame ſhall be paid. And if any conſtable or officer of the watch ſhall neglect or refuſe to obſerve and perform the orders he ſhall from time to time receive, he ſhall forfeit and pay to the uſe of ſaid poor a ſum not exceeding *ten dollars*, to be levied as aforeſaid.

SECT. 6. *Be it further enacted*, That when the ſaid Juſtices of the Peace and ſelectmen ſhall think fit to walk by night, to inſpect the order of the town wherein they dwell, ſuch of ſaid conſtables and watchmen ſhall attend them as ſhall be required to do the ſame and obey their lawful commands.

SECT. 7. *Be it further enacted*, That the fee to the gaoler for each perſon taken up in the night and committed, to be ſecured only till the next day, ſhall be *twenty-five cents*, and no more.

SECT. 8. *Be it further enacted*, That if any perſon ſhall ride with a naked ſcythe on the highways, or through any lane, ſtreets, or alleys, the perſon ſo offending ſhall forfeit and pay for each offence *two dollars*.

SECT. 9. *Be it further enacted*, That if any three or more perſons, being any or all of them armed with ſticks, clubs, or any kind

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kind of weapons, or being in any manner disguised, shall assemble together, having any imagery or pageantry as a publick shew, in any of the streets or lanes in any town or district in this Commonwealth, or if any person or persons, of or belonging to any company, having any kind of imagery or pageantry for a publick shew, shall by menaces or otherwise exact, require, demand or ask any money or other thing of value from any persons in the streets, lanes or houses in any such town or district, every person being of or assembled with such company, shall, for each offence, forfeit and pay *eight dollars*, or be imprisoned not exceeding one month.

SECT. 10. *Be it further enacted*, That if any persons to the number of three or more, between sunsetting and sunrising, being assembled together in any of the streets or lanes in any town or district, shall have any kind of imagery or pageantry for a publick shew, although none of the company so assembled shall be armed or disguised, or exact, demand or ask any money or thing of value, every person being of such company shall forfeit and pay the sum of *eight dollars*, or be imprisoned not exceeding one month.

SECT. 11. *Be it further enacted*, That if any person or persons shall set fire to any pile or combustible stuff, or be any ways concerned in causing or making a bonfire in any street or lane, or any other part of any town or district within this Commonwealth, such bonfire being within ten rods of any house or building, every person so offending shall for each offence forfeit and pay the sum of *eight dollars*, or be imprisoned not exceeding one month. The several fines in the eighth, ninth, tenth and eleventh sections of this act, shall be recovered with costs of prosecution; one moiety of said fines to the use of the poor of the town or district wherein the offence shall be committed, and the other moiety to him or them who shall sue for the same. And all masters are hereby made liable to pay the several fines as aforesaid, in this and the two next preceding sections, for the offences of their servants, and all parents for the offences of their children under age and not being servants.

[This act passed *March* 10, 1797.]

WRITS.—See CIVIL ACTIONS, page 29, &c.

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[THUS have I completed the Work, which a hope of its being generally uſeful, and a diſpoſition to comply with the wiſhes of a conſiderable number of my Brethren in Office, induced me to undertake.

I conclude it with this obſervation, that I have endeavoured to collect all the Laws ſuitable to my plan, which have been enacted, ſince the preſent Conſtitution of Government was eſtabliſhed. Thoſe that are of an older date, I have not (except in one or two inſtances which I conſidered of ſome importance) particularly attended to, ſuppoſing that ſuch as ſhould be judged uſeful, would ſhortly be reviſed by the Legiſlature, and re-enacted with ſuch amendments as ſhould appear neceſſary to make them conſiſtent with other laws, and with the Conſtitution of the Commonwealth.]

APPENDIX.

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APPENDIX.

EXTRACTS

Of ſundry Laws of the United States, which may require ſome Duty to be performed by a Juſtice of the Peace.

An Act to eſtabliſh the Judicial Courts of the United States.

SECT. 33. AND *be it enacted*, That for any crime or offence againſt the United States, the offender may, by any Juſtice or Judge of the United States, or by any Juſtice of the Peace or other magiſtrate of any of the United States, where he may be found, agreeably to the uſual mode of proceſs againſt offenders in ſuch ſtate, and at the expenſe of the United States, be arreſted and impriſoned, or bailed, as the caſe may be, for trial before ſuch court of the United States as by this act has cognizance of the offence; and copies of the proceſs ſhall be returned as ſpeedily as may be into the clerk's office of ſuch court, together with the recognizances of the witneſſes, for their appearance to teſtify in the caſe; which recognizance the magiſtrate before whom the examination ſhall be, may require on pain of impriſonment. And if ſuch commitment of the offender, or the witneſſes ſhall be in a diſtrict other than that in which the offence is to be tried, it ſhall be the duty of the Judge of that diſtrict where the delinquent is impriſoned, ſeaſonably to iſſue, and of the marſhal of the ſame diſtrict to execute, a warrant for the removal of the offender and the witneſſes, or either of them, as the caſe may be, to the diſtrict in which the trial is to be had. And upon all arreſts in criminal caſes bail ſhall be admitted, except where the puniſhment may be death, in which caſes it ſhall not be admitted but by the Supreme or a Circuit Court, or by a Juſtice of the Supreme Court, or a Judge of a Diſtrict Court, who ſhall exerciſe their diſcretion therein, regarding the nature and circumſtances of the offence, and of the evidence, and the uſages of law. And if a perſon committed by a Juſtice of the Supreme, or a Judge of a Diſtrict Court, for an offence not puniſhable with death, ſhall afterwards procure bail, and there be no Judge of the United States in the diſtrict to take the ſame, it may be taken by any Judge of the Supreme or Superior Court of law of ſuch ſtate.

[This act paſſed *September* 24, 1789.]

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An Act for the Puniſhment of certain Crimes againſt the United States.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled,* That if any perſon or perſons, owing allegiance to the United States of America, ſhall levy war againſt them, or ſhall adhere to their enemies, giving them aid and comfort within the United States or elſewhere, and ſhall be thereof convicted, on confeſſion in open court, or on the teſtimony of two witneſſes to the ſame overt act of the treaſon whereof he or they ſhall ſtand indicted, ſuch perſon or perſons ſhall be adjudged guilty of treaſon againſt the United States, and ſhall ſuffer death.

SECT. 2. *And be it enacted,* That if any perſon or perſons, having knowledge of the commiſſion of any of the treaſons aforeſaid, ſhall conceal and not as ſoon as may be diſcloſe and make known the ſame to the Preſident of the United States, or ſome one of the Judges thereof, or to the Preſident or Governour of a particular ſtate, or ſome one of the Judges or Juſtices thereof, ſuch perſon or perſons on conviction, ſhall be adjudged guilty of miſpriſion of treaſon, and ſhall be impriſoned not exceeding ſeven years, and fined not exceeding *one thouſand dollars.*

SECT. 3. *And be it enacted,* That if any perſon or perſons ſhall, within any fort, arſenal, dock-yard, magazine, or in any other place or diſtrict of country under the ſole and excluſive juriſdiction of the United States, commit the crime of wilful murder, ſuch perſon or perſons on being thereof convicted, ſhall ſuffer death.

SECT. 4. *And be it alſo enacted,* That the court before whom any perſon ſhall be convicted of the crime of murder, for which he or ſhe ſhall be ſentenced to ſuffer death, may at their diſcretion add to the judgment, that the body of ſuch offender ſhall be delivered to a ſurgeon for diſſection; and the marſhal who is to cauſe ſuch ſentence to be executed, ſhall accordingly deliver the body of ſuch offender, after execution done, to ſuch ſurgeon as the court ſhall direct, for the purpoſe aforeſaid. *Provided,* That ſuch ſurgeon, or ſome other perſon by him appointed for the purpoſe, ſhall attend to receive and take away the dead body at the time of the execution of ſuch offender.

SECT. 5. *And be it further enacted,* That if any perſon or perſons ſhall, after ſuch execution had, by force reſcue or attempt to reſcue the body of ſuch offender out of the cuſtody of the marſhal or his officers, during the conveyance of ſuch body to any place for diſſection as aforeſaid; or ſhall by force reſcue or attempt to reſcue ſuch body from the houſe of any ſurgeon, where the ſame ſhall have been depoſited in purſuance of this act; every perſon ſo offending ſhall be liable to a fine not exceeding *one hundred dollars,* and an impriſonment not exceeding twelve months.

SECT. 6. *And be it enacted,* That if any perſon or perſons, having knowledge of the actual commiſſion of the crime of wilful murder

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murder or other felony, upon the high seas, or within any fort, arsenal, dock-yard, magazine, or other place or district of country under the sole and exclusive jurisdiction of the United States, shall conceal, and not as soon as may be disclose and make known the same to some one of the Judges, or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding *five hundred dollars*.

SECT. 7. *And be it enacted*, That if any person or persons shall, within any fort, arsenal, dock-yard, magazine, or other place or district of country under the sole and exclusive jurisdiction of the United States, commit the crime of man-slaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding *one thousand dollars*.

SECT. 8. *And be it enacted*, That if any person or persons shall commit upon the high seas, or in any river, haven, bason or bay, out of the jurisdiction of any particular state, murder or robbery, or any other offence which, if committed within the body of a county, would by the laws of the United States be punishable with death; or if any captain or mariner of any ship or other vessel, shall piratically and feloniously run away with such ship or vessel, or any goods or merchandize to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate; or if any seaman shall lay violent hands upon his commander, thereby to hinder and prevent his fighting in defence of his ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be deemed, taken and adjudged to be a pirate and felon, and being thereof convicted, shall suffer death. And the trial of crimes committed on the high seas, or in any place out-of the jurisdiction of any particular state, shall be in the district where the offender is apprehended, or into which he may first be brought.

SECT. 9. *And be it enacted*, That if any citizen shall commit any piracy or robbery aforesaid, or any act of hostility against the United States, or any citizen thereof, upon the high sea, under colour of any commission from any foreign prince or state, or on pretence of authority from any person, such offender shall, notwithstanding the pretence of any such authority, be deemed, adjudged and taken to be a pirate, felon and robber, and on being thereof convicted, shall suffer death.

SECT. 10. *And be it enacted*, That every person who shall either upon the land or the seas, knowingly and wittingly aid and assist, procure, command, counsel or advise any person or persons to do or commit any murder or robbery, or other piracy aforesaid, upon the seas, which shall affect the life of such person, and such person or persons shall thereupon do or commit any such piracy or robbery, then all and every such person so as aforesaid aiding, assisting, procuring, commanding, counselling or advising the same, either

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either upon the land or the ſea, ſhall be and they are hereby declared, deemed and adjudged to be acceſſary to ſuch piracies before the fact; and every ſuch perſon being thereof convicted ſhall ſuffer death.

SECT. 11. *And be it enacted*, That after any murder, felony, robbery or other piracy whatſoever aforeſaid, is or ſhall be committed by any pirate or robber, every perſon who, knowing that ſuch pirate or robber has done or committed any ſuch piracy or robbery, ſhall on the land or at ſea receive, entertain or conceal any ſuch pirate or robber, or receive or take into his cuſtody any ſhip, veſſel, goods or chattels which have been by any ſuch pirate or robber piratically and feloniouſly taken, ſhall be and are hereby declared, deemed and adjudged to be acceſſary to ſuch piracy or robbery after the fact, and on conviction thereof ſhall be impriſoned not exceeding three years, and fined not exceeding *five hundred dollars*.

SECT. 12. *And be it enacted*, That if any ſeaman or other perſon ſhall commit man-ſlaughter upon the high ſeas, or confederate or attempt or endeavour to corrupt any commander, maſter, officer or mariner to yield up or to run away with any ſhip or veſſel, or with any goods, wares or merchandize, or to turn pirate, or to go over to or confederate with pirates, or in any wiſe trade with any pirate knowing him to be ſuch, or ſhall furniſh ſuch pirate with any ammunition, ſtores or proviſions of any kind, or ſhall fit out any veſſel knowingly and with a deſign to trade with or ſupply or correſpond with any pirate or robber upon the ſeas; or if any perſon or perſons ſhall any ways conſult, combine, confederate or correſpond with any pirate or robber on the ſeas knowing him to be guilty of any ſuch piracy or robbery; or if any ſeaman ſhall confine the maſter of any ſhip or veſſel, or endeavour to make a revolt in ſuch ſhip; ſuch perſon or perſons ſo offending and being thereof convicted, ſhall be impriſoned not exceeding three years, and fined not exceeding *one thouſand dollars*.

SECT. 13. *And be it enacted*, That if any perſon or perſons within any of the places upon the land under the ſole and excluſive juriſdiction of the United States, or upon the high ſeas in any veſſel belonging to the United States, or to any citizen or citizens thereof, on purpoſe and of malice aforethought, ſhall unlawfully cut off the ear or ears, or cut out or diſable the tongue, put out an eye, ſlit the noſe, cut off the noſe or a lip, or cut off or diſable any limb or member of any perſon, with intention in ſo doing to maim or diſfigure ſuch perſon in any the manners before mentioned, then and in every ſuch caſe the perſon or perſons ſo offending, their counſellors, aiders and abettors (knowing of and privy to the offence aforeſaid) ſhall on conviction be impriſoned not exceeding ſeven years, and fined not exceeding *one thouſand dollars*.

SECT. 14. *And be it enacted*, That if any perſon or perſons ſhall falſely make, alter, forge or counterfeit, or cauſe or procure to be falſely

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falſely made, altered, forged or counterfeited, or willingly act or aſſiſt in the falſe making, altering, forging or counterfeiting any certificate, indent or other publick ſecurity of the United States, or ſhall utter, put off or offer, or cauſe to be uttered, put off or offered in payment or for ſale any ſuch falſe, forged, altered or counterfeited certificate, indent or other publick ſecurity, with intention to defraud any perſon, knowing the ſame to be falſe, altered, forged or counterfeited, and ſhall be thereof convicted, every ſuch perſon ſhall ſuffer death.

SECT. 15. *And be it enacted*, That if any perſon ſhall feloniouſly ſteal, take away, alter, falſify or otherwiſe avoid any record, writ, proceſs or other proceedings in any of the courts of the United States, by means whereof any judgment ſhall be reverſed, made void, or not take effect, or if any perſon ſhall acknowledge or procure to be acknowledged in any of the courts aforeſaid, any recognizance, bail or judgment, in the name or names of any other perſon or perſons not privy or conſenting to the ſame, every ſuch perſon or perſons, on conviction thereof, ſhall be fined not exceeding *five thouſand dollars*, or be impriſoned not exceeding ſeven years, and whipped not exceeding thirty nine ſtripes. *Provided nevertheleſs*, That this act ſhall not extend to the acknowledgment of any judgment or judgments by any attorney or attornies, duly admitted for any perſon or perſons againſt whom any ſuch judgment or judgments ſhall be had or given.

SECT. 16. *And be it enacted*, That if any perſon within any of the places under the ſole and excluſive juriſdiction of the United States, or upon the high ſeas, ſhall take and carry away with an intent to ſteal or purloin the perſonal goods of another; or if any perſon or perſons having at any time hereafter the charge or cuſtody of any arms, ordnance, munition, ſhot, powder or habiliments of war belonging to the United States, or of any victuals provided for the victualling of any ſoldiers, gunners, marines or pioneers, ſhall for any lucre or gain, or wittingly, unadviſedly and of purpoſe to hinder or impede the ſervice of the United States, embezzle, purloin or convey away any of the ſaid arms, ordnance, munition, ſhot or powder, habiliments of war or victuals, that then and in every of the caſes aforeſaid, the perſon or perſons ſo offending, their counſellors, aiders and abettors (knowing of and privy to the offences aforeſaid) ſhall, on conviction, be fined not exceeding the fourfold value of the property ſo ſtolen, embezzled or purloined; the one moiety to be paid to the owner of the goods, or the United States, as the caſe may be, and the other moiety to the informer and proſecutor, and be publickly whipped not exceeding thirty-nine ſtripes.

SECT. 17. *And be it further enacted*, That if any perſon or perſons within any part of the juriſdiction of the United States as aforeſaid, ſhall receive or buy any goods or chattels that ſhall be feloniouſly taken or ſtolen from any other perſon, knowing the

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to be ſtolen, or ſhall receive, harbour or conceal any felons or thieves, knowing them to be ſo, he or they being of either of the ſaid offences legally convicted, ſhall be liable to the like puniſhments as in the caſe of larceny before are preſcribed.

SECT. 18. *And be it enacted*, That if any perſon ſhall wilfully and corruptly commit perjury, or ſhall by any means procure any perſon to commit corrupt and wilful perjury, on his or her oath or affirmation in any ſuit, controverſy, matter or cauſe depending in any of the courts of the United States, or in any depoſition taken purſuant to the laws of the United States, every perſon ſo offending and being thereof convicted, ſhall be impriſoned not exceeding three years, and fined not exceeding *eight hundred dollars*, and ſhall ſtand in the pillory for one hour, and be thereafter rendered incapable of giving teſtimony in any of the courts of the United States, until ſuch time as the judgment ſo given againſt the ſaid offender ſhall be reverſed.

SECT. 21. *And be it enacted*, That if any perſon ſhall, directly or indirectly, give any ſum or ſums of money, or any other bribe, preſent or reward, or any promiſe, contract, obligation or ſecurity for the payment or delivery of any money, preſent or reward, or any other thing to obtain or procure the opinion, judgment or decree of any Judge or Judges of the United States, in any ſuit, controverſy, matter or cauſe depending before him or them, and ſhall be thereof convicted, ſuch perſon or perſons ſo giving, promiſing, contracting or ſecuring to be given paid or delivered, any ſum or ſums of money, preſent, reward or other bribe as aforeſaid, and the Judge or Judges who ſhall in any wiſe accept or receive the ſame, on conviction thereof ſhall be fined and impriſoned at the diſcretion of the court; and ſhall forever be diſqualified to hold any office of honour, truſt or profit under the United States.

SECT. 22. *And be it enacted*, That if any perſon or perſons ſhall knowingly and wilfully obſtruct, reſiſt or oppoſe any officer of the United States, in ſerving or attempting to ſerve or execute any meſne proceſs or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or proceſs whatſoever, or ſhall aſſault, beat or wound any officer, or other perſon duly authoriſed in ſerving or executing any writ, rule, order, proceſs or warrant aforeſaid, every perſon ſo knowingly and wilfully offending in the premiſes, ſhall, on conviction thereof, be impriſoned not exceeding twelve months, and fined not exceeding *three hundred dollars*.

SECT. 23. *And be it further enacted*, That if any perſon or perſons ſhall by force ſet at liberty or reſcue any perſon who ſhall be found guilty of treaſon, murder, or any other capital crime, or reſcue any perſon convicted of any of the ſaid crimes going to execution, or during execution, every perſon ſo offending, and being thereof convicted, ſhall ſuffer death. And if any perſon ſhall by force ſet at liberty or reſcue any perſon who before conviction ſhall

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ſtand committed for any of the capital offences aforeſaid; or if any perſon or perſons ſhall by force ſet at liberty or reſcue any perſon committed for or convicted of any other offence againſt the United States, every perſon ſo offending ſhall, on conviction, be fined not exceeding *five hundred dollars*, and impriſoned not exceeding one year.

[This act paſſed *April* 30, 1790.]

An Act for the Government and Regulation of Seamen of the Merchant's Service.

SECT. 3. *And be it enacted*, That if the mate or firſt officer under the maſter, and a majority of the crew of any ſhip or veſſel bound on a voyage to any foreign port, ſhall, after the voyage is begun (and before the ſhip or veſſel ſhall have left the land) diſcover that the ſaid ſhip or veſſel is too leaky, or is otherwiſe unfit in her crew, body, tackle, apparel, furniture, proviſions or ſtores, to proceed on the intended voyage, and ſhall require ſuch unfitneſs to be inquired into, the maſter or commander ſhall upon the requeſt of the ſaid mate (or other officer) and ſuch majority, forthwith proceed to or ſtop at the neareſt or moſt convenient port or place where ſuch inquiry can be made, and ſhall there apply to the Judge of the Diſtrict Court, if he ſhall there reſide, or if not, to ſome Juſtice of the Peace of the city, town or place, taking with him two or more of the ſaid crew who ſhall have made ſuch requeſt; and thereupon ſuch Judge or Juſtice is hereby authoriſed and required to iſſue his precept directed to three perſons in the neighbourhood, the moſt ſkilful in maritime affairs that can be procured, requiring them to repair on board ſuch ſhip or veſſel and to examine the ſame in reſpect to the defects and inſufficiences complained of, and to make report to him the ſaid Judge or Juſtice in writing under their hands, or the hands of two of them, whether in any or in what reſpect the ſaid ſhip or veſſel is unfit to proceed on the intended voyage, and what addition of men, proviſions or ſtores, or what repairs or alterations in the body, tackle or apparel will be neceſſary; and upon ſuch report the ſaid Judge or Juſtice ſhall adjudge and determine, and ſhall endorſe on the ſaid report his judgment whether the ſaid ſhip or veſſel is fit to proceed on the intended voyage; and if not, whether ſuch repairs can be made or deficiences ſupplied where the ſhip or veſſel then lays, or whether it be neceſſary for the ſaid ſhip or veſſel to return to the port from whence ſhe firſt ſailed to be there refitted; and the maſter and crew ſhall in all things conform to the ſaid judgment. And the maſter or commander ſhall, in the firſt inſtance, pay all the coſts of ſuch view, report and judgment, to be taxed and allowed on a fair copy thereof, certified by the ſaid Judge or Juſtice. But if the complaint of the ſaid crew ſhall appear upon the ſaid report and judgment to have been without foundation, then

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the said master, or the owner or consignee of such ship or vessel, shall deduct the amount thereof, and of reasonable damages for the detention (to be ascertained by the said Judge or Justice) out of the wages growing due to the complaining seamen or mariners. And if after such judgment, such ship or vessel is fit to proceed on her intended voyage, or after procuring such men, provisions, stores, repairs or alterations as may be directed, the said seamen or mariners, or either of them shall refuse to proceed on the voyage, it shall and may be lawful for any Justice of the Peace to commit by warrant under his hand and seal, every such seaman or mariner (who shall so refuse) to the common gaol of the county, there to remain without bail or mainprize, until he shall have paid double the sum advanced to him at the time of subscribing the contract for the voyage, together with such reasonable costs as shall be allowed by the said Justice and inserted in the said warrant, and the surety or sureties of such seaman or mariner (in case he or they shall have given any) shall remain liable for such payment; nor shall any such seaman or mariner be discharged upon any writ of *habeas corpus* or otherwise, until such sum be paid by him or them, or his or their surety or sureties, for want of any form of commitment or other previous proceedings. *Provided*, That sufficient matter shall be made to appear upon the return of such *habeas corpus*, and an examination then to be had, to detain him for the causes herein before assigned.

Sect. 4. *And be it enacted*, That if any person shall harbour or secrete any seaman or mariner belonging to any ship or vessel, knowing them to belong thereto, every such person, on conviction thereof before any court in the city, town or county where he, she or they may reside, shall forfeit and pay *ten dollars* for every day which he, she or they shall continue so to harbour or secrete such seaman or mariner; one half to the use of the person prosecuting for the same, the other half to the use of the United States: And no sum exceeding one dollar shall be recoverable from any seaman or mariner by any one person, for any debt contracted during the time such seaman or mariner shall actually belong to any ship or vessel until the voyage for which such seaman or mariner engaged shall be ended.

Sect. 5. *And be it enacted*, That if any seaman or mariner, who shall have subscribed such contract as is herein before described, shall absent himself from on board the ship or vessel in which he shall so have shipped, without leave of the master or officer commanding on board; and the mate, or other officer having charge of the log-book, shall make an entry therein of the name of such seaman or mariner, on the day on which he shall so absent himself, and if such seaman or mariner shall return to his duty within forty-eight hours, such seaman or mariner shall forfeit three days pay for every day which he shall so absent himself, to be deducted out of his wages; but if any seaman or mariner shall absent himself

for

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for more than forty-eight hours at one time, he shall forfeit all the wages due to him, and all his goods and chattels which were on board the said ship or vessel, or in any store where they may have been lodged at the time of his desertion, to the use of the owners of the ship or vessel, and moreover shall be liable to pay to him or them all damages which he or they may sustain by being obliged to hire other seamen or mariners in his or their place, and such damages shall be recovered with costs, in any court or before any Justice or Justices having jurisdiction of the recovery of debts to the value of *ten dollars* or upwards.

SECT. 7. *And be it enacted*, That if any seaman or mariner, who shall have signed a contract to perform a voyage, shall at any port or place desert, or shall absent himself from such ship or vessel, without leave of the master or officer commanding in the absence of the master, it shall be lawful for any Justice of the Peace within the United States (upon the complaint of the master) to issue his warrant to apprehend such deserter and bring him before such Justice; and if it shall then appear by due proof that he has signed a contract within the intent and meaning of this act, and that the voyage agreed for is not finished, altered, or the contract otherwise dissolved, and that such seamen or mariner has deserted the ship or vessel, or absented himself without leave, the said Justice shall commit him to the house of correction or common gaol of the city, town or place, there to remain until the said ship or vessel shall be ready to proceed on her voyage, or till the master shall require his discharge, and then to be delivered to the said master, he paying all the cost of such commitment, and deducting the same out of the wages due to such seaman or mariner.

[This act passed *July* 20, 1790.]

FORMS.

I.

Of a Complaint of the master of a vessel against a seaman who deserts therefrom.

To S. T. Esq. one of the Justices of the Peace within and for the county of D.

Complains upon oath, master of the now in the port or harbour of , that having signed a contract to perform a voyage from to ha deserted and absented and still do absent from said without leave of the master or officer commanding in his absence.

Your complainant therefore prays that the said may be apprehended and brought before you, to answer this complaint, and be further dealt with thereon according to a law of the United States in such cases made and provided.

D——ff.

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D———ss. The above named made oath to the truth of the above complaint, this day of A. D. 18
Before me S. T. Justice of the Peace.

II.

Warrant thereon.

D———ss.

To the Sheriff of the said county of D. or either of his Deputies, or any of the Constables of the town of in said county, and to the Marshal of the District of or either of his Deputies,

Greeting.

Forasmuch as the foregoing complaint hath this day been made upon oath, before me the subscriber, one of the Justices of the Peace within and for the said county of D.—These are therefore, in the name of the United States of America, to require and command you, and you are hereby required and commanded to apprehend the bod of therein named, and bring before me, that may be examined touching the premises, and dealt with as to law and justice shall appertain.

You are likewise required to notify the complainant to appear and give evidence touching the matter contained in said complaint.

Given under my hand and seal the day of in the year of our Lord 18 S. T.

III.

Mittimus.

United States of America.

D———ss. To the Sheriff of the said county of D. or either of his Deputies, or any of the Constables of the town of in said county, and to the Marshal of the District of or either of his Deputies,

Greeting.

Whereas it hath appeared to S. T. Esq. one of the Justices of the Peace, within and for the said county of D. by due proof that ha. signed a contract to perform a voyage in the now in the port or harbour of , in the said district of ; from and that the said voyage is not finished, or the contract otherwise dissolved, and that deserted and absented without leave, as the said master, by his complaint to the said Justice has declared.

We command you therefore, that you take the said and forthwith carry to the common gaol in said , and deliver to the keeper thereof; and we do hereby require the said keeper to receive into his custody in said gaol, and there safely keep until the said shall be ready to proceed on

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on her ſaid voyage; or until the ſaid maſter ſhall require diſcharge, and then you are without further warrant, to deliver to the ſaid maſter, he paying the coſt of this commitment, being beſides your fees.

Witneſs the ſaid Juſtice at the day of A. D.
S. T.

An Act repealing, after the laſt day of June next, the Duties heretofore laid upon diſtilled Spirits imported from abroad, and laying others in their ſtead; and alſo upon Spirits diſtilled within the United States, and for appropriating the ſame.

SECT. 6. *And be it further enacted*, That all officers and perſons to be appointed purſuant to this act [viz Superviſors of Diſtricts and Inſpectors of Surveys] before they enter on the duties of their reſpective offices, ſhall take an oath or affirmation diligently and faithfully to execute the duties of their ſaid offices reſpectively, and to uſe their beſt endeavours to prevent and detect frauds in relation to the duties on ſpirits impoſed by this act, which oath or affirmation may be taken before any magiſtrate authoriſed to adminiſter oaths within the diſtrict or ſurvey to which he belongs, and being certified under the hand and ſeal of the magiſtrate by whom the ſame ſhall have been adminiſtered, ſhall, within three months thereafter, be tranſmitted to the comptroller of the treaſury, in default of taking which oath or affirmation, the party failing ſhall forfeit and pay *two hundred dollars* for the uſe of the United States, to be recovered with coſts of ſuit.

[This act paſſed *March* 3, 1791.]

An Act in further addition to an Act, entitled "An Act to eſtabliſh the Judicial Courts of the United States.

Be it enacted by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled, That the Judges of the Supreme Court, and of the ſeveral Diſtrict Courts of the United States, and all Judges and Juſtices of the courts of the ſeveral ſtates, having authority by the laws of the United States to take cognizance of offences againſt the conſtitution and laws thereof, ſhall reſpectively have the like power and authority to hold to ſecurity of the peace and for good behaviour, in caſes ariſing under the conſtitution and laws of the United States, as may or can be lawfully exerciſed by any Judge or Juſtice of the Peace of the reſpective ſtates, in caſes cognizable before them.

[This Act paſſed *July* 16, 1798.]

An Act for providing Compenſation for Marſhals, Clerks, &c.

SECT. 2. *And be it further enacted*, That when a deputy marſhal, who ſhall be duly appointed by the marſhal of any diſtrict, ſhall reſide and be more than twenty miles from the place where the

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district Judge of such district shall reside and be, the oath of office required of such deputy before he enters on the discharge thereof, may be administered and taken by and before any Judge or Justice of any state court within the same district, or before any Justice of the Peace having authority therein, and being certified by him to the said district Judge, shall be as effectual as if administered or taken before such district Judge.

[This act passed *February* 28, 1799.]

An Act to regulate the Collection of Duties on Imports and Tonnage.

SECT. 68. *And be it further enacted*, That every collector, naval officer and surveyor, or other person specially appointed by either of them for that purpose, shall have full power and authority to enter any ship or vessel in which they shall have reason to suspect any goods, wares or merchandise, subject to duty, are concealed, and therein to search for, seize and secure any such goods, wares or merchandise; and if they shall have cause to suspect a concealment thereof in any particular dwelling-house, store, building or other place, they or either of them shall, upon proper application on oath to any Justice of the Peace, be entitled to a warrant to enter such house, store or other place, (in the day time only) and there to search for such goods; and if any shall be found, to seize and secure the same for trial; and all such goods, wares and merchandise, on which the duties shall not have been paid, or secured to be paid, shall be forfeited.

[This act passed *March* 2, 1799.]

An Act to establish the Post-Office of the United States.

SECT. 2. *And be it further enacted*, That the Post-master-General, and all other persons employed in the General Post-Office, or in the care, custody, or conveyance of the mail, shall, previous to entering upon the duties assigned to them, or the execution of their trusts, and before they shall be entitled to receive any emolument therefor, respectively take and subscribe the following oath or affirmation before some magistrate, and cause a certificate thereof to be filed in the General Post-Office

"I, A. B. do swear, (*or* affirm, *as the case may be*) that I will faithfully perform all the duties required of me, and abstain from every thing forbidden by the laws in relation to the establishment of the post-office and post roads within the United States."

THE

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THE General Court having paſſed an Act for introducing the Dollar and its Parts, as the Money of Account, I think it will be uſeful to inſert here a

METHOD

Of reducing Pounds, Shillings, Pence *and* Farthings, *into* Dollars, Cents *and* Milles.

Set down the pounds and annex thereto, (without the ſeparating comma) the decimals of the ſhillings, pence and farthings.* To theſe annex a cypher, and divide the number thus increaſed by 3. The quotient will give the number required, the three right hand figures being the cents and milles, and thoſe at the left hand the dollars.

Example. How many *dollars, cents* and *milles* are there in £47 7 10¾ ?

Operation.

The decimals of the *ſhillings, pence* and *farthings*, you will find by the rule inſerted in the note, to be 395. Theſe, annexed to the pounds, make 47395, which being increaſed by a cypher annexed, and then divided by 3, thus

3)473950

Will produce 157,983 i. e. 157 dollars and 983 milles, or rather 157 dollars, 98 cents, and 3 milles.

NOTE. If you wiſh to reduce the *pounds, ſhillings, pence* and *farthings*, to *dollars* and *cents* only, you need not annex the cypher to

* The decimals of *ſhillings, pence* and *farthings* (to three places) may be found thus: Multiply the ſhillings by 5, and note the product, which will be *hundredths* of a pound. The number of farthings in the pence and farthings increaſed by 1, when the farthings exceed 12, and by 2, when they exceed 36, will be *thouſandths* of a pound. Add theſe to the decimals of the ſhillings, according to the rules of decimals, and you will have the decimals required.

Example. What are the decimals of 13/7 ¾ ?
Anſwer. The ſhillings multiplied by 5, produce ,65
The pence and farthings increaſed as above, ,032
Added, make the decimals required, ,682

According to this rule, you will find the decimals

Of 1 penny
2, 3, 4 pence — to be — ,004, ,008, ,012, ,017
of 5, 6, 7, 8 pence — to be — ,021, ,025, ,029, ,033
And of 9, 10, 11 pence — to be — ,037, ,042, ,046
Of 1 farthing, 2, 3 farthings — to be — ,001, ,002, ,003

By a little practice upon this rule, it will become familiar, and you will be able to determine queſtions of this kind upon inſpection.

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to the pounds and decimals, but in this case you must cut off only two figures from the quotient found as above.

METHOD

Of reducing Dollars, Cents *and* Milles, *to* Pounds, Shillings, Pence *and* Farthings.

Multiply the sum given, by 3. Cut off the four right hand figures, which will be the decimals of a pound.* The left hand figures will be the pounds.

NOTE. If there be no milles in the sum given, nor any cypher in their place, you may multiply by 3, the dollars and cents only, in which case you will observe to cut of only the *three* right hand figures; the rest will be pounds.

Example 1.

Reduce 39 dollars and 635 milles, or 39 dollars, 63 cents and 5 milles, to pounds, shillings, pence and farthings.

Operation.

39635
3

Answer, 11,8905 equal to £11 17 9½.

Example 2.

Reduce 134 dollars and 65 cents, to pounds, shillings, pence and farthings.

Operation.

13465
3

Answer, 40.395 equal to £40 7 10¼.

Those who are not acquainted with decimals, may reduce pounds, shillings, pence and farthings, to dollars, cents and milles, as follows, viz.

Divide the pounds by 3, and the shillings (increased by what may be remaining in the division of the pounds) by 6. The figures of the quotient connected, will shew the dollars; what may be remaining of the shillings, pence and farthings, may be reduced to cents by the rules of Practice, or found by the following

TABLE.

* These may be reduced to *shillings*, *pence* and *farthings*, as follows, viz. Double the first figure (*or* figure standing in the place of *tenths*) for *shillings*, and if the second place be 5, or more than 5, reckon another shilling, then call the figures in the second and third places, after deducting the 5, in the second place, so many farthings, abating 1, when they are above 12, and 2 when above 36.

Example. How many shillings, pence and farthings are there in 689? *Answer.* 13*s.* 9*d.*½. The operation is easy.

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TABLE.

Pence.	0 Cents. Milles.	*Shill.* 1 Cts. Mill.	*Shill.* 2 Cts. Mill.	*Shill.* 3 Cts. Mill.	*Shill.* 4 Cts. Mill.	*Shill.* 5 Cts. Mill.
0		16, 7	33, 3	50, 0	66, 7	83, 3
1	01, 4	18, 1	34, 7	51, 4	68, 1	84, 7
2	02, 8	19, 5	36, 1	52, 8	69, 5	86, 1
3	04, 2	20, 9	37, 5	54, 2	70, 9	87, 5
4	05, 6	22, 3	38, 9	55, 6	72, 3	88, 9
5	07, 0	23, 7	40, 3	57, 0	73, 7	90, 3
6	08, 3	25, 0	41, 6	58, 3	75, 0	91, 6
7	09, 7	26, 4	43, 0	59, 7	76, 4	93, 0
8	11, 1	27, 8	44, 4	61, 1	77, 8	94, 4
9	12, 5	29, 2	45, 8	62, 5	79, 2	95, 8
10	13, 9	30, 6	47, 2	63, 9	80, 6	97, 2
11	15, 3	32, 0	48, 6	65, 3	82, 0	98, 6

If farthings are contained in the sum, add,

for 1 farthing . { 003
2 } farthings { 007
3 } { 010

Explanation.

The figures 0, 1, 2, 3, 4, 5, at top, are *shillings*, those in the first column, *pence*, the rest are *milles* (*or* rather *cents* and *milles*) the right hand figure being *milles*, and the others *cents*.

Question 1. How many cents and milles are there in 3/10?

Look for the 3 shillings at top, under which and against 10 in the first column, are 63, 9, the number required.

2. How many milles are there in 4/7 ¾? *Answer*, 774. Found thus: Under 4, the shillings at the top, and against 7, the pence in the first column, are 764. To these add 10, being the number of milles for 3 farthings, you have 774, the number required.

To find how many *shillings*, *pence* and *farthings* there are in any number of *cents* and *milles* by the foregoing table; look for the number given, over which, at top, you have the shillings, and against it, in the left hand column, you have the pence. If you do not find the exact number, take that which is next less, and if the difference be 2, 3, 4 or 5, add 1 farthing; if it be 6, 7 or 8, add 2; if 9, 10, 11 or 12, add 3 farthings, and if 13, add 1 penny. Thus you will find the number required.

Dollars may, without the use of decimals, be very easily reduced to pounds and shillings, thus:

Rule. Multiply the tens and other higher figures of the number given, by 3, the product will be pounds. Multiply the figure in the unit's place, by 6, the product will be shillings. These being reduced to pounds and shillings, and added to the pounds before

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fore found, will give the pounds and ſhillings required. Thus 47 dollars will be found to be £14, 2, as follows, viz. The 4 multiplied by 3 produces £12. The 7 multiplied by 6 produces 42 ſhillings, equal to £2 2.

added together you have £14 2.

Cents and milles may be reduced to ſhillings, pence and farthings, by the rule of practice, or by the table as above.

INTEREST.

Juſtices of the Peace having frequent occaſion to compute the intereſt of Notes of Hand, &c. I think proper to preſent for their uſe the following

METHOD

Of finding the Intereſt due upon any ſum of Dollars, Cents, *and* Milles, *at 6 per cent. per annum, for any time given in months and days.*

Rule. Reduce the days to decimals of a month,* annex theſe decimals to the months, and halve the number thereby made; multiply the principal by this half of the time given, according to the rule of contracted multiplication: Thus reject all the figures in the multiplicand that ſtand at the right hand of the figure you multiply by, and ſet down their products, ſo that the right hand figures of each line, ſtand directly under each other, obſerving to increaſe ſuch right hand figure to what it would ariſe by carrying one for every ten, or neareſt thereto, that is to ſay, 2 for 16, or more, under 26; 3 for 26 or more, under 36; 4 for 36 or more, under 46, &c. obſerving to place the figure which expreſſes the tenths of the month under the unit's place of the dollars, and the reſt in a reverted order. The reſult will give the intereſt required: The three right hand figures of the product, being milles (*or* rather cents and milles) and the reſt dollars.

Example.

* This may be done by dividing the days according to the rule of decimals by 3, until you have 3 figures in the quotient. In this manner the decimals for each day of the month will be found as in the following

TABLE.

Days.	Decim.	Da.	Decim.	Da.	Decim.	Da.	Decim.	Da.	Decim.	Da.	Dec.
1	033	6	200	11	367	16	533	21	700	26	867
2	067	7	233	12	400	17	567	22	733	27	900
3	100	8	267	13	433	18	600	23	767	28	933
4	133	9	300	14	467	19	633	24	800	29	967
5	167	10	333	15	500	20	667	25	833		

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Example.

What is the intereſt of 214 dollars, 35 cents and 8 milles, for 57 months and 19 days?

Operation.

The decimals for 19 days are		633	Theſe
Added to the months, will make	57,	633	
One half of which is	28,	816	
The Principal is	214,	358	
The time, placed according to the rule, will be	618,	82	
	428,	72	
	171,	48	
	17,	15	
		21	
		12	
Theſe multiplied together, according to the rule, produce	61,	768	

Or 61 dollars, 76 cents and 8 milles, the intereſt required.

To this mode of computing intereſt I would add a

METHOD

Of computing the intereſt *due upon* bonds, notes, *&c. when partial payments may at different times be made.*

Rule. Caſt the intereſt upon the firſt payment, and if the payment exceeds the intereſt, deduct the exceſs from the principal, and caſt the intereſt upon the remainder to the time of the ſecond payment. If the payment be leſs than the intereſt, place it by itſelf, and caſt on the intereſt to the time of the next payment, and ſo on until the payments exceed the intereſt, then deduct the exceſs from the principal, and proceed as before.

Example.

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Example.

Suppoſe A ſhould have a bond againſt B. for 1166 dollars, 66 cents and 6 milles, dated May 1, 1796, upon which the following payments ſhould be made, viz.

	Dollars.	*Milles.*	*Months.*	*Days.*
1. December 25, 1796,	166,	666	7	24
2. July 10, 1797,	16,	666	6	15
3. September 1, 1798,	50,	000	13	22
4 June 14, 1799,	333,	333	9	13
5. April 15, 1800,	620,	000	10	1
			15	19

What will be due upon it, Auguſt 3, 1801 ?

	Dolls.	*Cents.*
Anſwer,	237,	96.

To facilitate the operation, let the ſpace of time from the date of the Bond to the day of the firſt payment, and from the time of one payment to that of another, and from that of the laſt payment to the time of ſettlement, be firſt computed and ſet down againſt the day of payment, as above. Then ſet down the ſum on which the intereſt is to be caſt, with the intereſt and payments, in columns, thus :

	Principal.	Time.	Intereſt.	Payments.	Exceſs.
	Doll. Mill.	*Mo. Da.*	*Doll. Mill.*	*Doll. Mill.*	*Doll. Mill.*
1	1166, 666	7, 24	45, 500	166, 666	121, 166
	121, 166				
2	1045, 500	6, 15	33, 987	16, 667	
3	1045, 500	13, 22	71, 777	50, 000	
4	1045, 500	9, 13	49, 293	333, 333	
	244, 943		155, 057	400, 000	244, 943
5	800, 557	10, 1	40, 153	620, 000	579, 847
	579, 847				
	220, 710	15, 19	17, 250		

The laſt remainder	220, 710
Intereſt from the laſt payment	17, 250
Sum due Auguſt 3, 1801,	237, 960

For a ſimilar method of computing Intereſt on Pounds, Shillings and Pence, ſee the Town Officer.

Another

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Another METHOD *of computing Intereſt.*

Rule. Take, by the rules of practice, the ſame proportion of the *Principal*, that the *time* given bears to 200 months.

This rule is grounded upon the following principle, viz. That the intereſt of any ſum for the term of 200 months, or 16 years and 8 months, is exactly equal to the principal.

Example. 1.

What is the intereſt of 342 dollars and 670 milles, for 3 years and 4 months?

Anſwer, 68 dollars and 534 milles.

Operation.

Y. M. *M.*
3 4 equal to 40.

M.
40 is $\frac{1}{5}$ of 200. Therefore divide the ſum given by 5

5)342,670

Anſ. 68,534

Example. 2.

What is the intereſt of 198 dollars and 643 milles, for 6 years, 3 months and 15 days?

Anſwer, 74 dol. and 988 mill.

Operation.

Y. M.
6 3 are equal to 75 months.

198,643

M.

$50\frac{1}{2}$	49,666	neareſt.
$20\frac{1}{10}$	19,864	
$5\frac{1}{4}$ of 20	4,966	neareſt.
15 *D.* $\frac{1}{10}$ of 5 *M.*	,497	
Anſwer.	74,988	

A TABLE

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A TABLE

For receiving and paying the GOLD COINS of *France*, *Spain*, and the *Dominions* of *Spain*, of their present standard, according to the Act of Congress, regulating Foreign Coins, passed the 9th of *February*, 1793. Calculated for the Bank of the United States.

Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.
1	0,876	35	30,657	69	60,438	400	350,364
2	1,752	36	31,533			500	437,955
3	2,628	37	32,409	70 70	61,314	600	525,547
4	3,503	38	33,284	71	62,190	700	613,138
5	4,379	39	34,160	72	63,066	800	700,729
6	5,255			73	63,942	900	788,320
7	6,131	40 40	35,036	74	64,817	1000	875,911
8	7,007	41	35,912	75	65,693		
9	7,883	42	36,788	76	66,569	Grains.	Milles.
		43	37,664	77	67,445		
10 10	8,759	44	38,540	78	68,321	1	36
11	9,635	45	39,416	79	69,197	2	73
12	10,511	46	40,292			3	109
13	11,387	47	41,168	80 80	70,073	4	146
14	12,263	48	42,044	81	70,949	5	182
15	13,138	49	42,919	82	71,825	6	219
16	14,014			83	72,701	7	255
17	14,890	50 50	43,795	84	73,576	8	292
18	15,766	51	44,671	85	74,452	9	328
19	16,642	52	45,547	86	75,328	10	365
		53	46,423	87	76,204	11	401
20 20	17,518	54	47,298	88	77,080	12	438
21	18,394	55	48,174	89	77,956	13	474
22	19,270	56	49,050			14	511
23	20,146	57	49,926	90 90	78,832	15	547
24	21,022	58	50,802	91	79,708	16	584
25	21,898	59	51,678	92	80,584	17	620
26	22,774			93	81,460	18	657
27	23,649	60 60	52,555	94	82,335	19	693
28	24,525	61	53,431	95	83,211	20	730
29	25,401	62	54,307	96	84,087	21	766
		63	55,183	97	84,963	22	803
30 30	26,277	64	56,058	98	85,839	23	839
31	27,153	65	56,934	99	86,715	24	876
32	28,029	66	57,810	100 100	87,591		
33	28,905	67	58,686	200	175,182		
34	29,781	68	59,562	300	262,773		

A TABLE

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A TABLE

For receiving and paying the GOLD COINS of *Great Britain* and *Portugal*, of their preſent ſtandard, according to the Act of Congreſs, regulating Foreign Coins, paſſed the 9th of *February*, 1793. Calculated for the uſe of the Bank of the United States.

Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.	Dwt's.	Dol. Mill.
1	0,889	35	31,111	69	61,333	400	355,555
2	1,778	36	32,000			500	444,444
3	2,667	37	32,889	70	62,222	600	533,333
4	3,555	38	33,778	71	63,111	700	622,222
5	4,444	39	34,667	72	64,000	800	711,111
6	5,333			73	64,889	900	800,000
7	6,222	40	35,555	74	65,778	1000	888,889
8	7,111	41	36,444	75	66,667		
9	8,000	42	37,333	76	67,555	Grains	Milles.
		43	38,222	77	68,444		
10	8,889	44	39,111	78	69,333	1	037
11	9,778	45	40,000	79	70,222	2	074
12	10,667	46	40,889			3	111
13	11,555	47	41,778	80	71,111	4	148
14	12,444	48	42,667	81	72,000	5	185
15	13,333	49	43,555	82	72,889	6	222
16	14,222			83	73,778	7	260
17	15,111	50	44,444	84	74,667	8	297
18	16,000	51	45,333	85	75,555	9	333
19	16,889	52	46,222	86	76,444	10	371
		53	47,111	87	77,333	11	408
20	17,778	54	48,000	88	78,222	12	445
21	18,667	55	48,889	89	79,111	13	482
22	19,555	56	49,778			14	519
23	20,444	57	50,667	90	80,000	15	556
24	21,333	58	51,555	91	80,889	16	593
25	22,223	59	52,444	92	81,778	17	630
26	23,111			93	82,667	18	667
27	24,000	60	53,333	94	83,555	19	704
28	24,889	61	54,222	95	84,444	20	741
29	25,778	62	55,111	96	85,333	21	778
		63	56,000	97	86,222	22	815
30	26,667	64	56,888	98	87,111	23	852
31	27,555	65	57,778	99	88,000	24	889
32	28,444	66	58,667	100	88,889		
33	29,333	67	59,555	200	177,778		
34	30,222	68	60,444	300	266,667		

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